

**Request for Proposals for**  
**FC-7522, Inmate Pharmacy Services on Behalf of DOC**



**Atlanta, Georgia**

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**Part 1**  
**Information and Instructions to Proponents**

## **Part 1: Information and Instructions to Proponents**

1. **Services Being Procured:** This Request for Proposals ("RFP") from qualified proponents ("Proponent" or "Proponents") by the City of Atlanta ("City"), on behalf of the Atlanta Department of Corrections ("DOC"), seeks to procure the following services ("Services"): Off-Site Pharmacy Services. A more detailed Scope of Services sought in this procurement is set forth in Exhibit A-Services attached to the Services Agreement ("Services Agreement"); **Contract No. FC-7522, Inmate Pharmacy Services on Behalf of DOC** included in this RFP.<sup>1</sup>
2. **Method of Source Selection:** This procurement is being conducted in accordance with all applicable provisions of the City of Atlanta's Code of Ordinances, including its Procurement and Real Estate Code and the particular method of source selection for the services sought in this RFP is Code Section 2-1188; Competitive sealed proposals. By submitting a Proposal concerning this procurement, a Proponent acknowledges that it is familiar with all laws applicable to this procurement, including, but not limited to, the City's Code of Ordinances and Charter, which laws are incorporated into this RFP by reference.
3. **Minimum Qualifications; Authority to Transact Business in Georgia:**
  - Each Proponent team member (Service Provider Key Personnel) **must be able to demonstrate a minimum of five (5) years of experience within the last ten (10) years providing pharmacy services;**
  - The Proponent must maintain and identify in their proposal, a minimum of one (1) back-up point-of-contact that can comply and respond to all components of the Scope of Services, in the event the pharmacist is unavailable;
  - Direct billing for all Federal Inmates is mandatory and should not be submitted to the City for any monthly invoicing requests;
  - Proponents are required to maintain an electronic medical records system that is 100% compatible with the City's current Medical Records System *Correctek*;
  - The Proponent must agree with the appointed City Physician making quarterly site visits to their facility, in order to ensure everything is up to ACA standards; and
  - Each Proponent **MUST** submit with its Proposal, documentation that demonstrates it is duly authorized to conduct business in the State of Georgia.
4. **No Offer by City; Firm Offer by Proponent:** This procurement does not constitute an offer by City to enter into an agreement and cannot be accepted by any Proponent to form an agreement. This procurement is only an invitation for offers from interested Proponents and no offer shall bind City. A Proponent's offer is a firm offer and may not be withdrawn except under the rules specified in City's Code of Ordinances and other applicable law.

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<sup>1</sup> All capitalized terms contained in the Services Agreement are incorporated into this RFP.

5. **Proposal Deadline:** Your response to this RFP must be received by the City's Department of Procurement, 55 Trinity Avenue, S.W., City Hall South, Suite 1900, Atlanta, Georgia 30303-0307 **no later than 2:00 p.m., EST** (as verified by the Bureau of National Standards) on **Wednesday, August 20, 2014**. Any Proposal received after this time will not be considered and will be rejected and returned.
6. **Pre-Proposal Conference:** Each Proponent is highly encouraged attend the Pre-Proposal Conference scheduled for **Tuesday, August 5, 2014, at 11:00 A.M.**, at the DOP Conference Room in Suite 1900. Each Proponent must be fully informed regarding all existing and expected conditions and matters which might affect the cost or performance of the Services. Any failure to fully investigate the Jobsite(s) shall not relieve any Proponent from responsibility from evaluating properly the difficulty or cost of successfully performing the Services.
7. **Proposal Guarantee (NOT APPLICABLE TO THIS SOLICITATION):**
  - 7.1. **Each Proponent is required to furnish a Proposal Guarantee in the amount of five percent (5%) of the total Cost Proposal amount.** At the option of the Proponent, the Proposal Guaranty may also be cash, a certified check payable to the order of City or a Proposal Bond in a form acceptable to the City. A surety executing a Proposal Bond must meet the requirements set forth in Appendix B-Insurance and Bonding Requirements attached to the Services Agreement included in this RFP.
  - 7.2. Each Proponent agrees that, if it is awarded the Agreement and fails to execute it and provide all other documents required to consummate the transaction within fifteen (15) days of the award, City will retain the Proposal Guarantee as liquidated damages and not as a penalty.
8. **Procurement Questions; Prohibited Contacts:** Any questions regarding this RFP should be submitted in writing to the City's contact person, Mr. Arthur Small, Contracting Officer, Department of Procurement, 55 Trinity Avenue, SW, Suite 1790, Atlanta, Georgia 30303-0307, by e-mail **asmalls@atlantaga.gov**, on or before **August 8, 2014 by noon at 12:00.** Questions received after the designated period will not be considered. Any response made by the City will be provided in writing to all Proponents by addendum. It is the responsibility of each Proponent to obtain a copy of any Addendum issued for this procurement by monitoring the City's website at [www.atlantaga.gov](http://www.atlantaga.gov) and its Department of Procurement's Plan Room which is open during posted business hours, Suite 1900, 1<sup>st</sup> Floor, 55 Trinity Avenue, S.W., City Hall South, Atlanta, Georgia 30303. No Proponent may rely on any verbal response to any question submitted concerning this RFP. All Proponents and representatives of any Proponent are strictly prohibited from contacting any other City employees or any third-party representatives of the City on any matter having to do with this RFP. All communications by any Proponent concerning this RFP must be made to the City's contact person, or any other City representatives designated by the Chief Procurement Officer in writing.
9. **Ownership of Proposals:** Each Proposal submitted to the City will become the property of the City, without compensation to a Proponent, for the City's use, in its discretion.
10. **Insurance and/or Bonding Requirements:** The Insurance and/or Bonding requirements for any Agreement that may be awarded pursuant to this RFP are set forth in Appendix B-

Insurance and Bonding Requirements attached to the Services Agreement included in this RFP.

11. **Applicable City OCC Programs:** The City's OCC Programs applicable to this procurement are set forth in Appendix A; Office of Contract Compliance Submittals, attached to the Services Agreement included in this RFP. By submitting a Proposal in response to this procurement, each Proponent agrees to comply with such applicable OCC Programs.
12. **Evaluation of Financial Information:** The City's evaluation of financial information concerning a Proponent and its consideration of such information in determining whether a Proponent is responsive and responsible may involve a review of several items of information required to be included in a Proposal. City will review the information included in Form 2; Company Financial Statements attached to this RFP and any additional information required on that form to be included in a Proposal. Further, if this RFP requires the provision of a Payment Bond and/or Performance Bond if an Agreement is awarded, the City will review the information included in Form 5; Proof of Insurance and Bonding Capacity. A Proponent must include with that form (a) notarized letter(s) from its proposed insurer(s) and surety(ies) indicating that the financial capacity of the Proponent is such that the insurer(s)/surety(ies) is/are willing to issue insurance and Payment and Performance Bonds for the Proponent if an Agreement is awarded to it. Further, if this RFP requires a successful Proponent that is awarded an Agreement pursuant to this procurement to post some other type of performance guarantee (e.g. letter of credit, guaranty agreement, etc.), a Proponent must submit with its Proposal a notarized letter from an appropriate financial institution (e.g. bank) indicating that it is willing to issue such performance guarantee for the Proponent if an Agreement is awarded to it.
13. **Special Rules Applicable to Evaluation of Proposals:** A Proponent may be required to submit, in writing, the addresses of any proposed subcontractors or equipment manufacturers listed in the Proposal and to submit other material information relative to proposed subcontractors. City reserves the right to disapprove any proposed subcontractors whose technical or financial ability or resources or whose experience are deemed inadequate.
14. **Examination of Proposal Documents:**
  - 14.1. Each Proponent is responsible for examining with appropriate care the complete RFP and all Addenda and for informing itself with respect to all conditions which might in any way affect the cost or the performance of any Services. Failure to do so will be at the sole risk of the Proponent, who is deemed to have included all costs for performance of the Services in its Proposal.
  - 14.2. Each Proponent shall promptly notify City in writing should the Proponent find discrepancies, errors, ambiguities or omissions in the Proposal Documents, or should their intent or meaning appear unclear or ambiguous, or should any other question arise relative to the RFP. Replies to such notices may be made in the form of an addendum to the RFP, which will be issued simultaneously to all potential Proponents who have obtained the RFP from City.
  - 14.3. City may in accordance with applicable law, by addendum, modify any provision or part of the RFP at any time prior to the Proposal due date and time. The Proponent

shall not rely on oral clarifications to the RFP unless they are confirmed in writing by City in an issued addendum.

- 14.4. Each Proponent must confirm Addenda have been received and acknowledge receipt by executing Form 6; Acknowledgment of Addenda-attached to this RFP at Part 4.
15. **Cancellation of Solicitation:** This solicitation may be cancelled in accordance to the City of Atlanta Code of Ordinances.
16. **Award of Agreement; Execution:** If the City awards an Agreement pursuant to this procurement, the City will prepare and forward to the successful Proponent an Agreement for execution substantially in the form included in this RFP.
17. **This Request for Proposal is subject to the Georgia Security & Immigration Compliance Act.** Pursuant to the Georgia Security & Immigration Compliance Act of 2006, as amended on May 11, 2009, bidders and proponents are notified that all bids/proposals for services that are to be physically performed within the State of Georgia must be accompanied by proof of their registration with and continuing and future participation in the E-Verify program established by the United States Department of Homeland Security. A completed affidavit available at [www.atlantaga.gov](http://www.atlantaga.gov), must be submitted on the top of the bid/proposal at the time of submission, prior to the time for opening bids/proposals. **Under state law, the City cannot consider any bid/proposal which does not include a completed affidavit. It is not the intent of this notice to provide detailed information or legal advice concerning the Georgia Security & Immigration Compliance Act of 2006, as amended on May 11, 2009. All bidders intending to do business with the City are responsible for independently apprising themselves and complying with the requirements of that law and its effect on City procurements and their participation in those procurements. For additional information on the E-Verify program or to enroll in the program, go to: <https://e-verify.uscis.gov/enroll> (REQUIRED SUBMITTAL).**
18. **Multiple Awards:** Upon evaluation of the Proposals, and following oral interviews/presentations (*if applicable*), negotiations may be undertaken with the Proponent(s) determined by the City to be the most responsive and responsible of the short-listed Proponents. The City reserves the option to award multiple Agreements. The purpose of the negotiations will be to arrive at final Agreements concerning the business terms of the transaction. In the event that negotiations with the most qualified Proponents fail to reach final agreement, such negotiations will be terminated. The City will then enter into negotiations with the next most qualified Proponent. This process will continue until final agreements, if possible, are realized.

**Part 2**  
**Contents of Proposals and Required Submittals**



## **Part 2: Contents of Proposals/Required Submittals**

- 1. General Contents of Proposals:** A Proponent must submit a complete Proposal in response to this RFP in the format specified in this RFP; no other format will be considered. A Proposal will consist of two (2) separate documents:
  - 1.1. Informational Proposal; and
  - 1.2. Minimum Guarantee (Form provided by City at Part 5; Services Agreement; Exhibit A.1- Cost Proposal). Minimum Guarantee will become part of the Services Agreement attached to this RFP, if an Agreement is awarded pursuant to this procurement.
- 2. Informational Proposals:** An Informational Proposal is comprised of 2 sources of information:
  - 2.1. **Volume I:** information drafted and provided by a Proponent; and
  - 2.2. **Volume II:** information provided by a Proponent on forms provided by the City (or required to be created by a Proponent) in this RFP.
- 3. Information Required to Be Included in Informational Proposal:**
  - 3.1. **Summary:** The following is a summary of information required to be contained in an Informational Proposal:
    - 3.1.1. **Information Drafted And Provided By A Proponent:** This information should be included in a Volume I to a Proposal.
      - 3.1.1.1. **Executive Summary;**
      - 3.1.1.2. **Organizational Structure;**
      - 3.1.1.3. **Resumes of Key Personnel;**
      - 3.1.1.4. **Overall Experience, Qualifications and Performance on Previous Projects; and**
      - 3.1.1.5. **Management Plan.**
    - 3.1.2. **Information Provided by a Proponent on Forms Provided by the City:** This information should be included in a Volume II to a Proposal:
      - 3.1.2.1. **Forms attached to this RFP at Part 4:**
        - 3.1.2.1.1. **Form 1; Illegal Immigration Reform and Enforcement Act Forms;**
        - 3.1.2.1.2. **Form 2; Disclosure Form and Questionnaire;**
        - 3.1.2.1.3. **Form 3; Proponent Financial Disclosure;**
        - 3.1.2.1.4. **Form 4.1; Certification of Insurance Ability;**
        - 3.1.2.1.5. **Form 4.2; Certification of Bonding Ability;**
        - 3.1.2.1.6. **Form 5; Acknowledgment of Addenda;**
        - 3.1.2.1.7. **Form 6; Proponent Contact Directory;**
        - 3.1.2.1.8. **Form 7; Reference List;**
        - 3.1.2.1.9. **Form 8; Proposal Bond (Not applicable to this solicitation); and**
        - 3.1.2.1.10. **Form 9; Required Submittal Checklist.**

**NOTE: Every space on every form must be completed. If the form requires a notary, please comply. Failure to complete each form as required may deem you non-responsive. If there are any questions regarding any form, it is strongly recommended that you submit your question(s) to the Contracting Officer listed in the RFP prior to the deadline for submitting questions.**

**3.1.2.2. Forms attached to Services Agreement attached to this RFP at Part 5**

3.1.2.2.1 Exhibit A.1: Cost Proposal (**This should be included in a separate sealed envelope and labeled 'Cost Proposal'**); and

3.1.2.2.1. Appendix A; City's OCC Programs; Office of Contract Compliance.

**3.2. Information Requirements Details:** The following is a more detailed summary of the requirements of certain portions of the Informational Proposal:

**3.2.1. Executive Summary (tabbed in Volume I).**

3.2.1.1. **Cover Letter:** The executive summary must include a letter with the Proponent's name, address, telephone number and fax number, signed by a person authorized to act on behalf of the Proponent. The letter should also include the name, title, address, e-mail address, telephone number and fax number of the person signing the letter and the name, title, address, e-mail address, telephone number and fax number of one (1) contact person to whom all future correspondence and/or communications may be directed by the City concerning this procurement, if that person is different from the person executing the letter. The letter should also designate the type of business entity that proposes to enter into a Contract with the City and the identity of any other business entities that will comprise the Proponent and include a brief history of the Proponent and statement of the Proponent's approach to providing the services solicited in this RFP.

3.2.1.2. **Detailed Executive Summary:** The purpose of the Detailed Executive Summary is to provide an overview of the Proponent's qualifications to accomplish the project. At a minimum, the Detailed Executive Summary must contain the following information:

3.2.1.2.1. Complete legal name of the Proponent and the name of the legal entities that comprise the Proponent. The Proponent must provide the domicile where each entity comprising it is organized, including entity name, brief history of the entity, contact name, address, phone number, and facsimile number, as well as the legal structure of the entity and a listing of major satellite offices;

3.2.1.2.2. The general and specific capabilities and experience of the Proponent's Team. Each Proponent must identify examples where team members have worked together to complete a project and discuss how the team was formed and how the team will function as an integrated unit in providing services to the City;

3.2.1.2.3. A description of the Proponent's plan for complying with the City's EBO goals. This section should include detailed information regarding

the essential subcontractors/subconsultants the Proponent intends to use and should indicate the role and responsibilities these firms will be assigned. Each Proponent must provide a letter from each essential subcontractor/subconsultant indicating that the firm concurs with the role and responsibility Proponent has described; -

3.2.1.2.4. A declarative statement as to whether the Proponent or any member of the Proponent team has an open dispute with the City or is involved in any litigation associated with work in progress or completed in both the private and public sector during the past five (5) years;

3.2.1.2.5. Provide a brief history of the company including the number of years in business providing the services you are outlining in your proposal;

3.2.1.2.6. Provide resumes which include qualifications, certifications, education and responsibilities of anticipated staff outlined in your proposal;

**3.2.1.3. Organizational Structure (Tabbed in Volume I).** The Proponent's Organizational Structure Section of the Proposal should introduce the proposed Proponent team by:

3.2.1.3.1. providing the Proponent's Management Organizational Chart both graphically and in narrative format. The Organizational chart and narrative should provide a description of the Proponent's views on how it will organizationally provide the Services, as well as depict the relationship of its key personnel roles to that of the Principal-in-Charge and other key members of the management team.

3.2.1.3.2. providing a description of how this organizational structure will facilitate managing the Services requested and how an efficient flow of information will be realized from the organizational structure.

3.2.1.3.3. providing the names of proposed candidates for each function on the chart.

3.2.1.3.4. As a quality business relationship is important, please include anything else you feel relevant. Please answer the following questions if they are applicable. If not, please indicate N/A.

1. What is the legal name of your company?
2. Please state the number of years your company has been in business.
3. Are you a subsidiary, affiliate, or franchise? If yes, what is the name of your parent company?
4. What is the headquarters location address, phone number and Web site?
5. What is the company ownership structure?
6. How many employees do you have worldwide? In North America? Locally?

7. Provide a sample certificate of insurance identifying your standard insurance coverage.
8. Provide your tax identification number.
9. Provide your Dun & Bradstreet number.
10. What kind of geographical classification applies to your company?
  - ☐ Local: (i.e., operates in only one city or state)
  - ☐ Regional: (i.e., operates in only one geographical area)
  - ☐ Multi-regional: (i.e., operates in more than one region, but not national)
  - ☐ National: (i.e., provide services across the U.S. only)
  - ☐ International: (i.e., conducts business in the U.S. and abroad)

### 3.2.2. Key Personnel/Resumes:

- 3.2.2.1.1. Identify and provide resumes for ALL of the individuals that the Team will use to fill the following proposed positions:

- 3.2.2.1.1.1. Pharmacy Manager;
- 3.2.2.1.1.2. Assistant Pharmacy Manager;
- 3.2.2.1.1.3. Pharmacy Technician; and
- 3.2.2.1.1.4. Office/Store Manager.

- 3.2.2.1.2. Resumes should be organized as follows:

- 3.2.2.1.2.1. Name and Title;
- 3.2.2.1.2.2. Professional Background;
- 3.2.2.1.2.3. Current and Past Relevant Employment;
- 3.2.2.1.2.4. Education;
- 3.2.2.1.2.5. Certifications;
- 3.2.2.1.2.6. List of (5) Relevant projects, including:
  - 3.2.2.1.2.6.1. Client Name;
  - 3.2.2.1.2.6.2. project description;
  - 3.2.2.1.2.6.3. role of the individual;
  - 3.2.2.1.2.6.4. project actual or expected completion date; and
- 3.2.2.1.3. Client List/Reference Contact **(REQUIRED SUBMITTAL. A MINIMUM OF 5 REFERENCES ARE REQUIRED. PLEASE REFER TO REQUIRED SUBMITTAL FORM LISTED WITHIN PART 4 OF THIS SOLICITATION DOCUMENT, TITLED FORM 7). THE REFERENCE FORM 7, MUST BE COMPLETED BY THE PARTY WHOM IS PROVIDING THE REFERENCE; NOT THE PROPONENT.**

- 3.2.2.1.4. Submission of these names constitutes a commitment to use these individuals if the Proponent is selected, and changes may be made only with the prior written consent of the City. In the event there is need to replace key team members during the course of the project, Proponent must describe its back-up personnel plan.

**3.2.2.2. Overall Experience, Qualifications and Performance on Previous Projects.**

Proponents should detail their relevant experience, qualifications, performance and capabilities for performing the services outlined in the Exhibit A: Scope of Services.

**3.2.3. Management Plan (Tabbed in Volume I).** Based on the Proponent's Organizational structure, describe how the Proponent will manage the Services, specifically addressing the following:

**3.2.3.1. Proponent's approach to team leadership;**

**3.2.3.2. how the Proponent will:**

3.2.3.2.1. ensure proper communications among pertinent project team members;

3.2.3.2.2. establish and maintain the necessary cooperative relationships;

3.2.3.2.3. coordinate all necessary project activities within that team relationship;

**3.2.3.3. identify the tools that are intended to be used to manage these project elements, and tasks;**

**3.2.3.4. Proponent's proposed method to:**

3.2.3.4.1. Identify and resolve issues during the project duration;

**3.2.3.5. Make critical decisions;**

**3.2.3.6. Describe your company's core capabilities and business approach;**

**3.2.3.7. What differentiates your organization from your competition;**

**3.2.3.8. How is your organization structured locally, and how does this structure support your ability to provide the service you are proposing;**

**3.2.3.9. Describe your start up plan for beginning the service(s) that are outlined within your proposal;**

**3.2.3.10. Describe your overall business objectives you are proposing in detail;**

**3.2.3.11. Describe your hiring process in general; including recruiting, screening and training; specify process per type of position;**

**3.2.3.12. Provide sample brochures and pictures of sourcing initiatives used by your agency to attract new clients;**

**3.2.3.13. Provide a list of expected cooperation and deliverables that you would need afforded to your firm by the City (if any), in order, for your agency to satisfy all business objectives;**

**3.2.3.14. Describe your safety policies and procedures; and**

**3.2.3.15. Describe your process for handling customer complaints, including the manner in which complaints are handled and resolved.**

4. **Total Cost Proposal (Firm Fixed Total Cost).** Submit one (1) stamped "Original" and seven (8) copies in a **separate envelope**).

- The COA bills are honored on a Net 30 basis from the time of invoicing. Please ensure your firm can comply with these payment terms, should payments be permissible to your company.

5. **Submission of Proposals:**

- 5.1. A Proposal must be submitted in sealed envelope(s) or package(s) and the outside of the envelope(s) or package(s) must clearly identify the name of the project: **FC-7522, Inmate Pharmacy Services on Behalf of DOC** and the name and address of the Proponent. All Proposals must be submitted to:

**Adam L. Smith, Esq., CPPO, CPPB, CPPM, CPP**  
**Chief Procurement Officer**  
**Department of Procurement**  
**55 Trinity Avenue, S.W.**  
**City Hall South, Suite 1900**  
**Atlanta, Georgia 30303-0307**

- 5.2. A Proponent is required **to submit one (1) stamped original and seven (8) copies of its Informational Proposal.** Each Informational Proposal must be submitted on 8½" x 11" single-sided, double-spaced, typed pages, using 12-point font size and such pages **MUST** be inserted in a standard three-hole ring binder. Each Informational Proposal must contain and index and separate sections for the information requirements set forth in this RFP, as well as for the forms required to be submitted.
- 5.3. In addition to the hard copy submission, each Proponent should submit two (2) digital versions of its Proposal in Adobe Portable Document Format ("PDF") on compact disk (CDs). CD One (1) version should be a duplicate of the hard copy of the Proposal with no deviations in order or layout of the hard copy proposal. CD Two (2) version should be a redacted version of the hard copy Proposal. Please refer to the Georgia Open Records Acts (O.C.G.A. § 50-18-72) for information not subject to public disclosure.
- 5.4. The City assumes no liability for differences in information contained in the Proponent's printed Proposal and that contained on the CDs. In the event of a discrepancy, the City will rely upon the information contained in the Proponent's printed material (Hard Copy). Each CD should be labeled with the Project Number, Project Name, and the CD Number

## 6. Selection for Competitive Sealed Proposals:

The City will carefully evaluate the responsiveness and responsibility of each Proponent. The selection criteria shall include but not be limited to, those factors contained in subsection 2-1188(k) of the City of Atlanta Code of Ordinances; and the following (the responsibility is solely on the Proponent to adhere to all evaluation factors as outlined in the City of Atlanta Code of Ordinances):

- (1) Previous experience demonstrating competence to perform the services involved in the solicitation;
- (2) Past performance of previous contracts with respect to time of completion and quality of services;
- (3) The fee or compensation demanded for the services;
- (4) The ability to comply with applicable laws;
- (5) The ability to comply with the schedule for the performance of the services, as required by the City;
- (6) The financial ability to furnish the necessary bonds;
- (7) The financial condition of the offeror;
- (8) The ability to provide staffing of management personnel, satisfactory to the City; and
- (9) The offeror's compliance with the requirements of equal employment opportunity (EEO) and, where applicable, equal business opportunity (EBO) programs, as may be required by ordinance.

Additionally, the evaluation criteria will include but may not be limited to, a review of the following factors:

- Clear understanding of the goals and objectives and demonstration by offer a comprehensive plan to accomplish goals;
- Qualifications and experience of all proposed team members;
- Demonstration that programs and services offered will meet the needs of those in the community;
- Response to ALL questions asked within Exhibit A, Scope of Services;
- Responsiveness to all items noted as Required Submittals within the solicitation document;
- Reference submission and satisfactory review; and
- Price.

## 7. Responsiveness and responsibility for each Proponent can be observed as the following:

A. The responsiveness of a Proponent is determined by the following:

1. A timely and effective delivery of all services, materials, documents, and/or other information required by the City;
2. The completeness of all material, documents and/or information required by the City; and
3. The notification of the City of methods, services, supplies and/or equipment that could reduce cost or increase quality.

B. The responsibility of a Proponent is determined by the following:

1. The ability, capacity and skill of the Proponent to perform the Agreement or provide the Work required;
2. The capability of the Proponent to perform the Agreement or provide the Work promptly, or within the time specified without delay or interference;
3. The character, integrity, reputation, judgment, experience and efficiency of the Proponent;
4. The quality of performance of previous contracts or work;
5. The previous existing compliance by the Proponent with laws and ordinances relating to the Agreement or Work;
6. The sufficiency of the financial resources and ability of the Proponent to perform Agreement or provide the Work;
7. The quality, availability and adaptability of the supplies or contractual Work to the particular use required; and
8. The successful Proponent shall assume full responsibility for the conduct of his agents and/or employees during the time such agents or employees are on the premises for the purpose of performing the Work herein specified.



### **Part 3**

## **Evaluation of Proposals**

### **Part 3; Evaluation of Proposals**

An Evaluation Committee, consisting of City representatives, will review the RFP submittals in accordance with the submittal requirements and the evaluation criteria set forth below. In addition to the criteria that will be evaluated and scored; please make note of the above-referenced items that will be evaluated but not scored. All evaluation factors outlined in this RFP are important and can have an impact on the overall recommendation for an award.

An award shall be made to the most responsible and responsive offeror whose proposal is determined in writing to be the most advantageous to the City, taking into consideration the evaluation factors set forth in the this RFP. **Should a Proponent not submit any portions of an Required Submittal, they will be deemed non-responsive.**

<b>RELATIVE WEIGHT</b>	<b>GRADED ITEMS</b>	<b>SCORE</b>
<b>35</b>	<b>Exhibit D: Pricing Information</b>	
<b>20</b>	<b>Documented Experience</b>	
<b>10</b>	<b>Management Plan</b>	
<b>10</b>	<b>Performance on Previous Projects</b>	
<b>15</b>	<b>OCC Programs</b>	
<b>10</b>	<b>Financial Capability</b>	
<b>100%</b>	<b>TOTAL SCORE</b>	

#### **End of Instructions to Proponents Section to Include:**

- **Part 1: Information and Instructions to Proponents**
- **Part 2; Contents of Proposals/Required Submittals**
- **Part 3; Evaluation of Proposals**

**Part 4**  
**Required Submittals Forms**

## Required Submittal (FORM 1)

### Illegal Immigration Reform and Enforcement Act Forms (Page 1 of 3)

#### **INSTRUCTIONS TO PROPONENTS:**

All Proponents must comply with the Illegal Immigration Reform and Enforcement Act of 2011, O.G.G.A § 13-10-90, et seq. (IIREA). IIREA was formerly known as the Georgia Security and Immigration Compliance Act or GSICA. Proponents must familiarize themselves with IIREA and are solely responsible for ensuring compliance. Proponents must not rely on these instructions for that purpose. They are offered only as a convenience to assist Proponents in complying with the requirements of the City's procurement process and the terms of this RFP.

1. The attached Contractor Affidavit must be filled out COMPLETELY and submitted with the Proposal prior to Proposal due date.
2. The Contractor Affidavit must contain an active Federal Work Authorization Program (E-Verify) User ID Number and Date of Registration.
3. Where the business structure of a Proponent is such that Proponent is required to obtain an Employer Identification Number (EIN) from the Internal Revenue Service, Proponent must complete the Contractor Affidavit on behalf of, and provide a Federal Work Authorization User ID Number issued to, the Proponent itself. Where the business structure of a Proponent does not require it to obtain an EIN, each entity comprising Proponent must submit a separate Contractor Affidavit.

**Example 1**, ABC, Inc. and XYZ, Inc. form and submit a Proposal as Happy Day, LLC. Happy Day, LLC must enroll in the E-verify program and submit a single Contractor Affidavit in the name of Happy Day, LLC which includes the Federal Work Authorization User ID Number issued to Happy Day, LLC.

**Example 2**, ABC, Inc. and XYZ, Inc. execute a joint venture agreement and submit a Proposal under the name Happy Day, JV. If, based on the nature of the JV agreement, Happy Day, JV. is not required to obtain an Employer Identification Number from the IRS, the Proposal submitted by Happy Day, JV must include both a Contractor Affidavit for ABC, Inc. and a Contractor Affidavit for XYZ, Inc.

4. All Contractor Affidavits must be executed by an authorized representative of the entity named in the Affidavit.
5. All Contractor Affidavits must be duly notarized.
6. All Contractor Affidavits must be submitted with the Proponent's Response to the RFP.
7. Subcontractor and sub-subcontractor affidavits are not required at the time of proposal submission, but will be required at contract execution or in accordance with the timelines set forth in IIREA.

**Required Submittal (FORM 1)**

**Illegal Immigration Reform and Enforcement Act Forms (Page 2 of 3)**

**Contractor Affidavit under O.C.G.A. § 13-10-91(b)(1)**

By executing this affidavit, the undersigned contractor verifies its compliance with O.C.G.A. § 13-10-91, stating affirmatively that the individual, firm or corporation which is engaged in the physical performance of services on behalf of the City of Atlanta has registered with, is authorized to use and uses the federal work authorization program commonly known as E-Verify, or any subsequent replacement program, in accordance with the applicable provisions and deadlines established in O.C.G.A. § 13-10-91. Furthermore, the undersigned contractor will continue to use the federal work authorization program throughout the contract period and the undersigned contractor will contract for physical performance of services in satisfaction of such contract only with subcontractors who present an affidavit to the contractor with the information required by O.C.G.A. § 13-10-91(b). Contractor hereby attests that its federal work authorization user identification number and date of authorization are as follows:

\_\_\_\_\_  
Federal Work Authorization User Identification Number

\_\_\_\_\_  
Date of Authorization

Name of Contractor: \_\_\_\_\_

Name of Project: \_\_\_\_\_

Name of Public Employer: City of Atlanta

**I hereby declare under penalty of perjury that the forgoing is true and correct.**

Executed on \_\_\_\_\_, \_\_\_\_\_, 20\_\_ in \_\_\_\_\_ (city), \_\_\_\_\_ (state)

\_\_\_\_\_  
Signature of Authorized Officer or Agent

\_\_\_\_\_  
Printed name and Title of Authorized Officer or Agent

SUBSCRIBED AND SWORN BEFORE  
ME ON THIS THE \_\_\_\_, DAY OF \_\_\_\_\_, 20\_\_

\_\_\_\_\_  
NOTARY PUBLIC

My Commission Expires: \_\_\_\_\_

**Required Submittal (FORM 1)**

**Illegal Immigration Reform and Enforcement Act Forms (Page 3 of 3)**

**Subcontractor Affidavit under O.C.G.A. § 13-10-91(b)(3)**

By executing this affidavit, the undersigned subcontractor verifies its compliance with O.C.G.A. § 13-10-91, stating affirmatively that the individual, firm or corporation which is engaged in the physical performance of services under a contract with (\_\_\_\_\_) (name of contractor)) on behalf of the City of Atlanta has registered with, is authorized to use and uses the federal work authorization program commonly known as E-Verify, or any subsequent replacement program, in accordance with the applicable provisions and deadlines established in O.C.G.A. § 13-10-91. Furthermore, the undersigned subcontractor will continue to use the federal work authorization program throughout the contract period and the undersigned subcontractor will contract for the physical performance of services in satisfaction of such contract only with sub-subcontractors who present an affidavit to the subcontractor with the information required by O.C.G.A. § 13-10-91(b). Additionally, the undersigned subcontractor will forward notice of the receipt of an affidavit from a sub-subcontractor to the contractor within five business days of receipt. If the undersigned subcontractor receives notice of receipt of an affidavit from any sub-subcontractor that has contracted with a sub-subcontractor to forward, within five business days of receipt, a copy of such notice to the contractor. Subcontractor hereby attests that its federal work authorization user identification number and date of authorization are as follows:

\_\_\_\_\_  
Federal Work Authorization User Identification Number

\_\_\_\_\_  
Date of Authorization

Name of Subcontractor: \_\_\_\_\_

Name of Project: \_\_\_\_\_

Name of Public Employer: City of Atlanta

**I hereby declare under penalty of perjury that the forgoing is true and correct.**

Executed on \_\_\_\_\_, \_\_\_\_\_, 20\_\_ in \_\_\_\_\_ (city), \_\_\_\_\_ (state)

\_\_\_\_\_  
Signature of Authorized Officer or Agent

\_\_\_\_\_  
Printed name and Title of Authorized Officer or Agent

SUBSCRIBED AND SWORN BEFORE  
ME ON THIS THE \_\_\_, DAY OF \_\_\_\_\_, 20\_\_

\_\_\_\_\_  
NOTARY PUBLIC

My Commission Expires: \_\_\_\_\_

**Required Submittal (FORM 2)**  
**Contractor Disclosure Form (Page 1 of 7)**

**DEFINITIONS FOR THE PURPOSES OF THIS DISCLOSURE FORM**

"Affiliate"	Any legal entity that, directly or indirectly through one of more intermediate legal entities, controls, is controlled by or is under common control with the Respondent or a member of Respondent.
"Contractor"	Any person or entity having a contract with the city.
"Control"	The controlling entity: (i) possesses, directly or indirectly, the power to direct or cause the direction of the management and policies of the controlled entity, whether through the ownership of voting securities or by contract or otherwise; or (ii) has direct or indirect ownership in the aggregate of fifty one (51%) or more of any class of voting or equity interests in the controlled entity.
"Respondent"	Any individual or entity that submits a proposal in response to a solicitation. If the Respondent is an individual, then that individual must complete and sign this Disclosure Form where indicated. If the Respondent is an entity, then an authorized representative of that entity must complete and sign this Disclosure Form where indicated. <b>If the Respondent is a newly formed entity (formed within the last three years), then an authorized representative of that entity must complete and sign this Disclosure Form where indicated, and each of the members or owners of the entity must also complete and sign separate Disclosure Forms where indicated.</b>

***Instructions: Provide the following information for the entity or individual completing this Statement (the "Individual/Entity").***

**A. Basic Information:**

1. Name of Individual/Entity responding to this solicitation:
2. Name of the authorized representative for the responding Entity:

**B. Individual/Entity Information:**

1. Principal Office Address:
2. Telephone and Facsimile Numbers:
3. E-Mail Address:
4. Name and title of Contact Person for the Individual/Entity:
5. Is the individual/Entity authorized to transact business in the state of Georgia?

☐ Yes (Attach Certificate of Authority to transact business in Georgia from Georgia Secretary of State.)

☐ No

**Required Submittal (FORM 2)**  
**Contractor Disclosure Form (Page 2 of 7)**

**C. Questionnaire**

By submitting this questionnaire, the Respondent hereby certifies that the information provided is true and correct to the best of the Respondent's knowledge and belief. The Respondent understands that providing false or misleading information may result in the Respondent being disqualified from bidding on future projects and may result in the Respondent being subject to legal action.

1. Please describe the general development of the Respondent's business during the past ten (10) years, or such shorter period of time that the Respondent has been in business.

2. Are there any lawsuits, administrative actions or litigation to which Respondent is currently a party or has been a party (either as a plaintiff or defendant) during the past ten (10) years based upon fraud, theft, breach of contract, misrepresentation, safety, wrongful death or other similar conduct? YES NO  
☐ ☐

3. If "yes" to question number 2, were any of the parties to the suit a bonding company, insurance company, an owner, or otherwise? If so, attach a sheet listing all parties and indicate the type of company involved. YES NO  
☐ ☐

4. Has the Respondent been charged with a criminal offense within the last ten (10) years? YES NO  
☐ ☐

5. Has the Respondent received any citations or notices of violation from any government agency in connection with any of Respondent's work during the past ten (10) years (including OSHA violations)? Describe any citation or notices of violation which Respondent received. YES NO  
☐ ☐

6. Please state whether any of the following events have occurred in the last ten (10) years with respect to the Respondent. If any answer is yes, explain fully the circumstances surrounding the subject matter of the affirmative answer:

(a) Whether Respondent, or Affiliate currently or previously associated with Respondent, has ever filed a petition in bankruptcy, taken any actions with respect to insolvency, reorganization, receivership, moratorium or assignment for the benefit of creditors, or otherwise sought relief from creditors? YES NO  
☐ ☐

(b) Whether Respondent was subject of any order, judgment or decree not subsequently reversed, suspended or vacated by any court permanently enjoining Respondent from engaging in any type of business practice? YES NO  
☐ ☐

(c) Whether Respondent was the subject of any civil or criminal proceeding in which there was a final adjudication adverse to Respondent which directly arose from activities conducted by Respondent. YES NO  
☐ ☐



**Required Submittal (FORM 2)**  
**Contractor Disclosure Form (Page 3 of 7)**

7. Has any employee, agent or representative of Respondent who is or will be directly involved in the project, in the last ten (10) years:

(a) directly or indirectly, had a business relationship with the City?

YES NO  
☐ ☐

(b) directly or indirectly, received revenues from the City?

YES NO  
☐ ☐

(c) directly or indirectly, received revenues from conducting business on City property or pursuant to any contract with the City?

YES NO  
☐ ☐

8. Whether any employee, agent, or representative of Respondent who is or will be directly involved in the project has or had within the last ten (10) years a direct or indirect business relationship with any elected or appointed City official or with any City employee?

YES NO  
☐ ☐

9. Whether Respondent has provided employment or compensation to any third party intermediary, agent, or lobbyist to directly or indirectly communicate with any City official or employee, or municipal official or employee in connection with any transaction or investment involving your firm and the City?

YES NO  
☐ ☐

10. Whether Respondent, or any agent, officer, director, or employee of your organization has solicited or made a contribution to any City official or member, or to the political party or political action committee within the previous five (5) years?

YES NO  
☐ ☐

11. Has the Respondent or any agent, officer, director, or employee been terminated, suspended, or debarred (for cause or otherwise) from any work being performed for the City or any other Federal, State or Local Government?

YES NO  
☐ ☐

12. Has the Respondent, member of Respondent's team or officer of any of them (with respect to any matter involving the business practice or activities of his or her employer been notified within the five (5) years preceding the date of this offer that any of them are the target of a criminal investigation, grand jury investigation, or civil enforcement proceeding?

YES NO  
☐ ☐

13. Please identify any Personal or Financial Relationships that may give rise to a conflict of interest as defined below *[Please be advised that you may be ineligible for award of contract if you have a personal or financial relationship that constitutes a conflict of interest that cannot be avoided]*:

(a) Personal relationships: executives, board members and partners in firms submitting offers must disclose familial relationships with employees, officers and elected officials of the City of Atlanta. Familial relationships shall include spouse, domestic partner registered under section 94-133, mother, father, sister, brother, and natural or adopted children of an official or employee.

YES NO  
☐ ☐

(b) Financial relationships: Respondent must disclose any interest held with a City employee or official, or family members of a City employee or official, which may yield, directly or indirectly, a monetary or other material benefit to the Respondent or the Respondent's family members. Please describe:

YES NO  
☐ ☐

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## **D. REPRESENTATIONS**

**Anti-Lobbying Provision.** All respondents, including agents, employees, representatives, lobbyists, attorneys and proposed partner(s), subcontractor(s) or joint venturer(s), will refrain, under penalty of the respondent's disqualification, from direct or indirect contact for the purpose of influencing the selection or creating bias in the selection process with any person who may play a part in the selection process.

**Certification of Independent Price Determination/Non-Collusion.** Collusion and other anticompetitive practices among offerors are prohibited by city, state and federal laws. All Respondents shall identify a person having authority to sign for the Respondent who shall certify, in writing, as follows:

"I certify that this bid proposal is made without prior understanding, agreement, or connection with any corporation, firm, or person submitting an bid or offer for the same supplies, labor, services, construction, materials or equipment to be furnished or professional or consultant services, and is in all respects fair and without collusion or fraud. I understand collusive bidding is a violation of city, state and federal law and can result in fines, prison sentences, and civil damages awards. By signing this document, I agree to abide by all conditions of this solicitation and offer and certify that I am authorized to sign for this Respondent/Offeror."

**Certify Satisfaction of all Underlying Obligations. (If Applicable)** If a Contract is awarded through this solicitation, then such Contractor should know that before final payment is made to a Contractor by the City, the Contractor shall certify to the City in writing, in a form satisfactory to the City, that all subcontractors, materialmen suppliers and similar firms or persons involved in the City contract have been paid in full at the time of final payment to the Contractor by the City or will be paid in full utilizing the monies constituting final payment to the Contractor.

**Confidentiality** . Details of the proposals will not be discussed with other respondents during the selection process. Respondent should be aware, however, that all proposals and information submitted therein may become subject to public inspection following award of the contract. Each respondent should consider this possibility and, where trade secrets or other proprietary information may be involved, may choose to provide in lieu of such proprietary information, an explanation as to why such information is not provided in its proposal. However, the respondent may be required to submit such required information before further consideration.

**Equal Employment Opportunity (EEO) Provision.** All bidders or offerors will be required to comply with sections 2-1200 and 2-1414 of the City of Atlanta Code of Ordinances, as follows: During the performance of the agreement, the Contractor agrees as follows:

- a. The Contractor shall not discriminate against any employee, or applicant for employment, because of race, color, creed, religion, sex, domestic relationship status, parental status, familial status, sexual orientation, national origin, gender identity, age, disability, or political affiliation. As used here, the words "shall not discriminate" shall mean and include without limitation the following:

**Required Submittal (FORM 2)**  
**Contractor Disclosure Form (Page 5 of 7)**

Recruited, whether by advertising or other means; compensated, whether in the form of rates of pay, or other forms of compensation; selected for training, including apprenticeship; promoted; upgraded; demoted; downgraded; transferred; laid off; and terminated.

The Contractor agrees to and shall post in conspicuous places, available to employees and applicants for employment, notices to be provided by the contracting officers setting forth the provisions of the EEO clause.

- b. The Contractor shall, in all solicitations or advertisements for employees, placed by or on behalf of the Contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, creed, religion, sex, domestic relationship status, parental status, familial status, sexual orientation, national origin, gender identity, age, disability, or political affiliation.
- c. The Contractor shall send to each labor union or representative of workers with which the Contractor may have a collective bargaining agreement or other contract or understanding a notice advising the labor union or workers' representative of the Contractor's commitments under the equal employment opportunity program of the City of Atlanta and under the Code of Ordinances and shall post copies of the notice in conspicuous places available to employees and applicants for employment. The Contractor shall register all workers in the skilled trades who are below the journeyman level with the U.S. Bureau of Apprenticeship and Training.
- d. The Contractor shall furnish all information and reports required by the contract compliance officer pursuant to the Code of Ordinances, and shall permit access to the books, records, and accounts of the Contractor during normal business hours by the contract compliance officer for the purpose of investigation so as to ascertain compliance with the program.
- e. The Contractor shall take such action with respect to any subcontractor as the city may direct as a means of enforcing the provisions of paragraphs (a) through (h) herein, including penalties and sanctions for noncompliance; provided, however, that in the event the Contractor becomes involved in or is threatened with litigation as a result of such direction by the city, the city will enter into such litigation as is necessary to protect the interest of the city and to effectuate the equal employment opportunity program of the city; and, in the case of contracts receiving federal assistance, the Contractor or the city may request the United States to enter into such litigation to protect the interests of the United States.
- f. The Contractor and its subcontractors, if any, shall file compliance reports at reasonable times and intervals with the city in the form and to the extent prescribed by the contract compliance officer. Compliance reports filed at such times directed shall contain information as to employment practices, policies, programs and statistics of the Contractor and its subcontractors.

**Required Submittal (FORM 2)**  
**Contractor Disclosure Form (Page 6 of 7)**

- g. The Contractor shall include the provisions of paragraphs (a) through (h) of this equal employment opportunity clause in every subcontract or purchase order so that such provisions will be binding upon each subcontractor or vendor.
- h. A finding, as hereinafter provided, that a refusal by the Contractor or subcontractor to comply with any portion of this program, as herein provided and described, may subject the offending party to any or all of the following penalties:
  - (1) Withholding from the Contractor in violation all future payments under the involved contract until it is determined that the Contractor or subcontractor is in compliance with the provisions of the contract;
  - (2) Refusal of all future bids for any contract with the City of Atlanta or any of its departments or divisions until such time as the Contractor or subcontractor demonstrates that there has been established and there shall be carried out all of the provisions of the program as provided in the Code of Ordinances;
  - (3) Cancellation of the public contract;
  - (4) In a case in which there is substantial or material violation of the compliance procedure herein set forth or as may be provided for by the contract, appropriate proceedings may be brought to enforce those provisions, including the enjoining, within applicable law, of Contractors, subcontractors or other organizations, individuals or groups who prevent or seek to prevent directly or indirectly compliance with the policy as herein provided.

**Prohibition on Kickbacks or Gratuities/Non-Gratuity.** The undersigned acknowledges the following prohibitions on kickbacks and gratuities:

- a. It is unethical for any person to offer, give or agree to give any employee or former employee a gratuity or an offer of employment in connection with any decision, approval, disapproval, recommendation, preparation or any part of a program requirement or a purchase request, influencing the content of any specification or procurement standard, rendering of advice, investigation, auditing or in any other advisory capacity in any proceeding or application, request for ruling, determination, claim or controversy or other particular matter pertaining to any program requirement or a contract or subcontract or to any solicitation or proposal therefor.
- b. It is unethical for any employee or former employee to solicit, demand, accept or agree to accept from another person a gratuity or an offer of employment in connection with any decision, approval, disapproval, recommendation, preparation or any part of a program requirement or a purchase request, influencing the content of any specification or procurement standard, rendering of advice, investigation, auditing or in any other advisory capacity in any proceeding or application, request for ruling, determination, claim or controversy or other particular matter pertaining to any program requirement or a contract or subcontract or to any solicitation or proposal therefor.
- c. It is also unethical for any payment, gratuity or offer of employment to be made by or on behalf of a subcontractor under a contract to the prime Contractor or higher tier subcontractor or any person associated therewith as an inducement for the award of a subcontract or order.

**Required Submittal (FORM 2)**  
**Contractor Disclosure Form (Page 7 of 7)**

**Declaration**

Under penalty of perjury, I declare that I have examined this Disclosure Form and Questionnaire and all attachments to it, if applicable, and, to the best of my knowledge and belief all statements contained herein and in any attachments, if applicable, are true, correct and complete.

I certify that this offer is made without prior understanding, agreement, or connection with any corporation, firm, or person submitting an offer for the same supplies, services, construction, or professional or consultant services, and is in all respects fair and without collusion or fraud. I understand collusive bidding is a violation of city, state and federal law and can result in fines, prison sentences, and civil damages awards. I agree to abide by all conditions of this solicitation and offer and certify that I am authorized to sign for this Respondent.

*Sign here if you are an individual:*

Printed Name: \_\_\_\_\_

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

Subscribed and sworn to or affirmed by \_\_\_\_\_ (name) this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
Notary Public of \_\_\_\_\_ (state)

My commission expires: \_\_\_\_\_

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*Sign here if you are an authorized representative of a responding entity or partnership:*

Printed Name of Entity or Partnership: \_\_\_\_\_

Signature of authorized representative: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_, 20\_\_

Subscribed and sworn to or affirmed by \_\_\_\_\_ (name), as the  
\_\_\_\_\_ (title) of \_\_\_\_\_ (entity or partnership name) this  
\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
Notary Public of \_\_\_\_\_ (state)

My commission expires: \_\_\_\_\_

\_\_\_\_\_  
Notary Public of \_\_\_\_\_ (state)

My commission expires: \_\_\_\_\_

## **Required Submittal (FORM 3)**

### **Proponent Financial Disclosure (Page 1 of 5)**

**Instructions:** It is necessary for the City to evaluate, verify, and understand the Proponent's financial capability and stability to undertake and perform the Services contemplated in this Solicitation. To accomplish this task, the Proponent must provide accurate and legible financial disclosures to the City as requested below.

A "Proponent" is an individual, entity or partnership submitting a proposal or Proposal in response to a Solicitation.

1. If the Proponent is an individual, financial disclosures for that individual must be provided.
2. If the Proponent is an entity or partnership, financial disclosures for that entity or partnership must be provided.
3. If the Proponent is a newly formed entity or partnership (formed within the last three years), financial disclosures for that entity or partnership must be provided together with full financial disclosure from the entity's or partnership's owners. Financial Disclosure includes a full response to all questions and requests for documentation listed in this Form.

For example, if the Proponent is a newly formed entity (formed within the last three years) made up of two separate entities (e.g., a majority interest owner and a minority interest owner), then financial disclosure is required from the Proponent entity, and financial disclosure is also required from each of the two owners (majority entity owner and minority entity owner) as well.

The Proponent (and its owners, if applicable) must submit hard copies of all financial disclosures in response to this Form.

**Required Submittal (FORM 3)**

**Proponent Financial Disclosure (Page 2 of 5)**

**Part A - General Information:**

Name of the Proponent:

\_\_\_\_\_

Name of individual, entity or  
partnership completing this Form:

\_\_\_\_\_

Relationship of individual, entity  
or partnership completing this Form  
to the Proponent:

\_\_\_\_\_

Contact information of individual,  
entity or partnership completing  
this Form:

\_\_\_\_\_

Address

\_\_\_\_\_

Phone Number(s)

\_\_\_\_\_

Email:

\_\_\_\_\_

**Required Submittal (FORM 3)**

**Proponent Financial Disclosure (Page 3 of 5)**

**Part B: Financial Information:**

1. The Proponent, and its owners, if applicable, should demonstrate its financial capability and stability by selecting and providing documentation from one of the following three groups of requests (see below). Please circle which group, (a), (b), or (c), is selected and provide the supporting documentation with the proposal/Proposal.
  - (a) Financial statements for the three (3) most recent consecutive fiscal years, audited by a Certified Public Accountant ("CPA"), including:
    - (i) Income Statement;
    - (ii) Balance Sheet; and
    - (iii) Statement of Cash Flows.
  - (b) Financial statements for the three (3) most recent consecutive fiscal years, either reviewed or compiled by a Certified Public Accountant ("CPA"), including:
    - (i) Income Statement;
    - (ii) Balance Sheet; and
    - (iii) Satisfactory proof of Proponent's ability to obtain a Performance Bond for the amount described in Appendix B, if applicable.
  - (c) Unaudited, self-prepared financial statements for the three (3) most recent consecutive fiscal years, including:
    - (i) Income Statement;
    - (ii) Balance Sheet;
    - (iii) Satisfactory proof of Proponent's ability to obtain a Performance Bond for the amount described in Appendix B, if applicable;
    - (iv) Two (2) banks or other institutional lenders' references; and
    - (v) Dunn and Bradstreet report for the last two (2) years.



**Required Submittal (FORM 3)**

**Proponent Financial Disclosure (Page 4 of 5)**

2. Fill in the blanks below to provide a summary of all of the Proponent's assets and liabilities for the three (3) most recent years (calculated from the date of the end of the fiscal year).

ALL FIGURES BELOW MUST BE REPRESENTED IN U.S. CURRENCY (\$).

Standard currency of Proponent's Financial Statements: \_\_\_\_\_

The exchange rate used: \_\_\_\_\_ = US \$ \_\_\_\_\_

Most recent three (3) years

	<u>Year: 2011</u> (Thousands)	<u>Year: 2012</u> (Thousands)	<u>Year: 2013</u> (Thousands)
Current Assets	\$.....	\$.....	\$.....
Current Liabilities	\$.....	\$.....	\$.....
Property & Equip.	\$.....	\$.....	\$.....
Working Capital	\$.....	\$.....	\$.....
Sales/ Revenue	\$.....	\$.....	\$.....
Total Assets	\$.....	\$.....	\$.....
Total Liabilities	\$.....	\$.....	\$.....
Interest Charges	\$.....	\$.....	\$.....
Net Income	\$.....	\$.....	\$.....
Net-Worth	\$.....	\$.....	\$.....

3. Do you plan to use or require an open line of credit for the project? Yes or No.

If yes, the Proponent must provide the source of the line of credit on bank letterhead for the bank providing the line of credit. The bank contact information must include: contact name, title, address, telephone, fax and e-mail address.

**Required Submittal (FORM 3)**

**Proponent Financial Disclosure (Page 5 of 5)**

**Declaration**

Under penalty of perjury, I declare that I have examined this Affidavit Disclosure form and all attachments to it, if applicable, and, to the best of my knowledge and belief, and all statements contained in it and all attachments, if applicable, are true, correct and complete.

Whether you are an individual executing this form or you are an authorized representative of an entity executing this form, the person signing below must sign or affirm in the presence of a Notary Public. The Notary Public's signature and seal must be provided, together with the date of the notarial act.

*Sign here if you are an individual:*

Printed Name: \_\_\_\_\_

Signature: \_\_\_\_\_

Date: \_\_\_\_\_, 20\_\_.

Subscribed and sworn to or affirmed by \_\_\_\_\_ (name) this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
Notary Public of \_\_\_\_\_ (state)

My commission expires: \_\_\_\_\_

---

*Sign here if you are an authorized representative of a responding entity:*

Printed Name of Entity: \_\_\_\_\_

Signature of authorized representative: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_, 20\_\_.

Subscribed and sworn to or affirmed by \_\_\_\_\_ (name), as the \_\_\_\_\_ (title) of \_\_\_\_\_ (entity name) this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
Notary Public of \_\_\_\_\_ (state)

My commission expires: \_\_\_\_\_

**Required Submittal (FORM 4.1)**

**Certification of Insurance Ability Instructions:**

Offerors **MUST** submit a completed copy of this form executed by their insurance company. Failure to submit completed form will result in the Offeror being deemed non-responsive.

I, \_\_\_\_\_ [insert an individual's name], on behalf of \_\_\_\_\_ [insert insurance company full name], a \_\_\_\_\_ [insert type of entity LLC, LLP, corporation, etc.] ("Insurer"), hereby represent and certify each of the following to the City of Atlanta, a municipal corporation of the State of Georgia ("City") on this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ [insert date]:

- (a) Insurer is licensed by the Insurance and Safety Fire Commissioner of the State of Georgia to transact insurance business in the State of Georgia;
- (b) Insurer has reviewed the Agreement attached to the solicitation for Project Number **FC-7522: Inmate Pharmacy Services on Behalf of DOC** ("Project") and its corresponding **Appendix for Insurance Requirements**;
- (c) Insurer certifies that if, as of the date written above, \_\_\_\_\_ ("Offeror") was selected as the successful Offeror for the Project, Insurer would provide insurance to Offeror for this Project in accordance with the terms set forth in the corresponding **Appendix for Insurance Requirements**; and

**PLEASE NOTE:** If this Form 4.1 is executed by an Attorney-in-Fact, then Insurer must attach a copy of a duly executed Power-of-Attorney evidencing such authority in addition to correctly completing this Form 4.1. If Offeror is unable to provide City with insurance that comply with the terms of the corresponding Appendix for Insurance Requirements within ten (10) days of receiving notice of intent to award the Project from the City, the City may, in its sole discretion, retain Offeror's security submitted with its offer and/or disqualify Offeror from further consideration for the award of the Agreement.

By executing this certification, Insurer represents that all of the information provided by Insurer herein is true and correct as of the date set forth above.

**Insurer:** [insert company name on line provided below]

\_\_\_\_\_

By: \_\_\_\_\_

Print Name: \_\_\_\_\_

Title: \_\_\_\_\_

\_\_\_\_\_  
Corporate Secretary/Assistant Secretary  
(Seal)

**Required Submittal (FORM 4.2)**

**Certification of Bonding Ability Instructions:**

Offerors **MUST** submit a **completed copy of this form executed by their surety**. Failure to submit completed form from will result in the Offeror being deemed non-responsive.

I, \_\_\_\_\_ [insert an individual's name], on behalf of \_\_\_\_\_ [insert surety company full name], a \_\_\_\_\_ [insert type of entity LLC, LLP, corporation, etc.], ("Surety"), hereby represent and certify each of the following to the City of Atlanta, a municipal corporation of the State of Georgia ("City") on this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ [insert date]:

- (a) Surety is licensed by the Insurance and Safety Fire Commissioner of the State of Georgia to transact surety business in the State of Georgia;
- (b) Surety has reviewed the Agreement attached to the solicitation for Project Number **FC-7522: Inmate Pharmacy Services on Behalf of DOC** ("Project") and its corresponding **Appendix for Insurance Requirements**;
- (c) Surety certifies that if, as of the date written above, \_\_\_\_\_ ("Offeror") was selected as the successful Offeror for the Project, Surety would provide bonding to Offeror for this Project in accordance with the corresponding **Appendix for Insurance Requirements**; and
- (d) **Surety only**: The Surety states that Offeror's uncommitted bonding capacity (not taking into account this Project) is approximately \$ \_\_\_\_\_ (U.S.). Surety's statement set forth in this Section (d) does not represent a limitation of the bonding capacity of Offeror or that Offeror will have the bonding capacity noted above at the time of contract execution for this Project.

**PLEASE NOTE:** If this Form 4.2 is executed by an Attorney-in-Fact, then Surety must attach a copy of a duly executed Power-of-Attorney evidencing such authority in addition to correctly completing this Form 4.2. If Offeror is unable to provide City with bonds that comply with the terms of the corresponding Appendix for Insurance Requirements within ten (10) days of receiving notice of intent to award the Project from the City, the City may, in its sole discretion, retain Offeror's security submitted with its offer and/or disqualify Offeror from further consideration for the award of the Agreement.

By executing this certification, Surety represents that all of the information provided by Surety herein is true and correct as of the date set forth above.

**Surety:** [insert company name on line provided below]

\_\_\_\_\_

By: \_\_\_\_\_

Print Name: \_\_\_\_\_

Title: \_\_\_\_\_

\_\_\_\_\_  
Corporate Secretary/Assistant Secretary  
(Seal)

**Required Submittal (FORM 5)**

**Acknowledgment of Addenda**

Proponents should sign below and return this form with their Proposal(s) to the Department of Procurement, 55 Trinity Avenue, City Hall South, Suite 1900, Atlanta, Georgia 30303, as acknowledgment of receipt of certain Addenda.

This is to acknowledge receipt of the following **Addenda** for **FC-7522: Inmate Pharmacy Services on Behalf of DOC;**

1. \_\_\_\_\_;
2. \_\_\_\_\_;
3. \_\_\_\_\_; and
4. \_\_\_\_\_.

Dated the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

Corporate Proponent:  
[Insert Corporate Name]

\_\_\_\_\_

By: \_\_\_\_\_

Print Name: \_\_\_\_\_

Title: \_\_\_\_\_

\_\_\_\_\_  
Corporate Secretary/Assistant  
Secretary (Seal)

Non-Corporate Proponent:  
[Insert Proponent Name]

\_\_\_\_\_

By: \_\_\_\_\_

Print Name: \_\_\_\_\_

Title: \_\_\_\_\_

\_\_\_\_\_  
Notary Public (Seal)  
My Commission Expires: \_\_\_\_\_

**Required Submittal (FORM 6)**

**Proponent Contact Directory<sup>1</sup>**

NAME	POSITION/TITLE	MAILING ADDRESS	OFFICE PHONE	CELL PHONE	EMAIL ADDRESS AND FAX NUMBER

<sup>1</sup> The purpose of the Proponent Contact Directory is to provide the City with a centralized, easily identified source of important contacts and other information regarding each of the business entities constituting a Proponent. This Proponent Contact Directory should include the names, positions/titles, firms, mailing addresses, phone and fax numbers and e-mail addresses for each of the following as it pertains to each of the firms in a Proponent's team:

1. At least two individuals, one primary the other(s) secondary, authorized to represent the firm for purposes of this RFP; and
2. Proponent Service Provider Key Personnel (as appropriate) listed in the Services Agreement included in this RFP at Part 5.

**Required Submittal (FORM 7)**

**Reference List**

Each Proponent must identify a minimum of five (5) references using the below-referenced format. The City is interested in reviewing references that are able to attest to a Proponent's performance ability and credibility in the industry of Inmate Pharmacy Services.

**\*\*\*This reference Form 7, must be completed by the party whom is providing the reference; not the Proponent.**

Reference:            Company Name  
                            Address  
                            City, State, Zip  
                            Phone  
                            Fax

Project Title:        **FC-7522: Inmate Pharmacy Services on Behalf of DOC**

Contact Person:     \_\_\_\_\_  
Direct Telephone:    \_\_\_\_\_  
Email Address:        \_\_\_\_\_

Date(s) of Project:   \_\_\_\_\_

Description of Services:

How would you rate the Customer Services provided by the Proponent:

How in sync was the Management Plan proposed by the Proponent to the actual service provided during the active phase of the contract?

Total Amount of Contract Including Change Orders: \_\_\_\_\_

Proponent's Role and Responsibilities:

Current Completion Status: \_\_\_\_\_

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*(Use the Same Format to Provide the Additional References)*

**Required Submittal "Unless a Proponent Elects to Submit an Alternative Form of Payment"**  
**(FORM 8)**

**Proposal Bond (Page 1 of 2)**

KNOW ALL MEN BY THESE PRESENTS, THAT WE \_\_\_\_\_  
hereinafter called the PRINCIPAL, and \_\_\_\_\_

hereinafter called the SURETY, a corporation chartered and existing under the laws of the State of \_\_\_\_\_, and duly authorized to transact Surety business in the State of Georgia, are held and firmly bound unto the City of Atlanta, Georgia, in the penal sum of either: [i] \_\_\_\_\_ Dollars and Cents (\$\_\_\_\_\_); or [ii] 5% of PRINCIPAL'S Proposal amount for **PROJECT NUMBER FC-7522: Inmate Pharmacy Services on Behalf of DOC**, good and lawful money of the United States of America, to be paid upon demand of the City of Atlanta, Georgia, to which payment well and truly to be made we bind ourselves, our heirs, executors, administrators and assigns, jointly and severally and firmly by these presents.

WHEREAS the PRINCIPAL has submitted to the City of Atlanta, Georgia, for **PROJECT NUMBER FC-7522: Inmate Pharmacy Services on Behalf of DOC**, a Proposal;

WHEREAS the PRINCIPAL desires to file this Bond in accordance with law, in lieu of a certified Proponent's check otherwise required to accompany this Proposal;

NOW THEREFORE: The conditions of this obligation are such that if the Proposal be accepted, the PRINCIPAL shall within ten (10) calendar days after receipt of written notification from the CITY of the award of the Contract execute a Contract in accordance with the Proposal and upon the terms, conditions and prices set forth therein, in the form and manner required by the City of Atlanta, Georgia, and execute sufficient and satisfactory Performance and Payment Bonds payable to the City of Atlanta, Georgia, each in the amount of one hundred percent (100%) of the total Contract price in form and with security satisfactory to said City of Atlanta, Georgia, then this obligation to be void; otherwise, to be and remain in full force and virtue in law; and the SURETY shall upon failure of the PRINCIPAL to comply with any or all of the foregoing requirements within the time specified above immediately pay to the City of Atlanta, Georgia, upon demand the amount hereof in good and lawful money of the United States of America, not as a penalty but as liquidated damages.

In the event suit is brought upon this Bond by the CITY and judgment is recovered, the SURETY shall pay all costs incurred by the CITY in such suit, including attorney's fees to be fixed by the Court.



**(NOT APPLICABLE TO THIS SOLICITATION)**

**Required Submittal "Unless a Proponent Elects to Submit an Alternative Form of Payment"**

**(FORM 8)**

**Proposal Bond (Page 2 of 2)**

Enclosed is a Proposal Bond in the approved form, in the amount of either:

[i] \_\_\_\_\_ Dollars and Cents  
(\$ \_\_\_\_\_), being in the amount of 5% of the CONTRACT Sum; or  
[ii] 5% of PRINCIPAL'S Proposal amount for **PROJECT NUMBER FC-7522: Inmate  
Pharmacy Services on Behalf of DOC**. The money payable on this bond shall be paid to the  
City of Atlanta, Georgia, for the failure of the Proponent to execute a CONTRACT within ten  
(10) days after receipt of the Contract form and at the same time furnish a Payment Bond and  
Performance Bond.

IN TESTIMONY THEREOF, the PRINCIPAL and SURETY have caused these presents to be  
duly signed and sealed this \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_.

**Corporate Proponent:**

**[Insert Corporate Name]**

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

\_\_\_\_\_  
**Corporate Secretary/Assistant  
Secretary (Seal)**

**Non-Corporate Proponent:**

**[Insert Proponent Name]**

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

\_\_\_\_\_  
**Notary Public (Seal)**

**My Commission Expires:** \_\_\_\_\_

**Surety:**

Name: \_\_\_\_\_

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

## Required Submittal (FORM 9)

### Required Submittal Checklist

The following submittals shall be completed and submitted with each Proposal see table below "Required Proposal Submittal Check Sheet." Please verify that these submittals are in the envelope before it is sealed. Disclaimer: It is each Proponent's sole responsibility to ensure that their proposal to the City is inclusive of all required submittal documents outlined on the below-referenced checklist; as well as within other parts of the solicitation document.

Submit one (1) Original Proposal, signed and dated, and five (5) complete copies of the Original Proposal including all required attachments.

In addition to the hard copy submissions, each Proponent shall submit two (2) digital versions of its Proposal Submission in Adobe Portable Document Format ("PDF") on compact disk (CDs). CD One (1) version should be a duplicate of the hard copy of the Proposal with no deviations in order or layout of the hard copy proposal. CD Two (2) version should be a redacted version of the hard copy Proposal Submission. Please refer to the Georgia Open Records Acts (O.C.G.A. § 50-18-72) for information not subject to public disclosure.

The City assumes no liability for differences in information contained in the Proponent's printed Proposal Submission and that contained on the CDs. In the event of a discrepancy, the City will rely upon the information contained in the Proponent's printed material (Hard Copy). Each CD should be labeled with the Project Number, Project Name, and the CD Number.

Item Number	Required Proposal Submittal Check Sheet	Complete
1	Part I - Instruction to Proponents (Not Applicable to this solicitation)	( )
2	Appendix A - Office of Contract Compliance (Required Submittals Included)	( )
3	Part I, Section 2 - All Required Submittal Forms (If any of the required submittal documents are not submitted or incomplete within your Proposal submittal package, your firm may be deemed non-responsive). Required Submittals include but are not limited to: Form 1: Illegal Immigration Reform and Enforcement Act Form; Form 2: Disclosure Form and Questionnaire; Form 3: Proponent's Financial Disclosure; Form 4.1: Certification of Insurance Ability; Form 4.2: Certification of Bonding Ability; Form 5: Acknowledgment of Antidiscrimination; Form 6: Proponent's Contact Directory; Form 7: Reference List; Form 8: Proposal Bond (Not applicable to this solicitation); and Form 9: Required Submittal Checklist	( )
	Proponent's Official Company Name: _____ Company Physical Address: _____	
	President/Vice President/Owner Name: _____ Title: _____ Office Telephone Number: _____ Direct Cell Telephone Number: _____ Email Address: _____	
	Primary Point-of-Contact Concerning RFP: _____ Title: _____ Office Telephone Number: _____ Direct Cell Telephone Number: _____ Email Address: _____	

**Part 5**  
**Draft Professional Services Agreement**

## DRAFT PROFESSIONAL SERVICES AGREEMENT

### FC-7522, Inmate Pharmacy Services on Behalf of DOC

This Draft Professional Services Agreement ("Agreement") is entered into and effective as of \_\_\_\_\_ (the "Effective Date") between the City of Atlanta ("City") and the service provider ("Service Provider") set forth below.

Contract Name:	Contract No. FC-7193
Service Provider	City of Atlanta
Name:	Using Agency: Atlanta Police Department
Address:	Address:
Phone:	Phone:
Authorized Representative:	Authorized Representative:

#### 1. Background.

1.1 City desires to obtain from Service Provider the services ("Services") described generally on **Exhibit A** attached.

1.2 The total not to exceed compensation amount payable by City during the initial term of this Agreement are \$ \_\_\_\_\_ ("Maximum Payment Amount"). More detailed terms concerning compensation payable under this Agreement are set forth on **Exhibit A.1**.

#### 2. Term.

2.1 Initial Term. The initial term of this Agreement will be for five (5) base years. This Agreement shall commence on the Effective Date and end on [\_\_\_\_]. The initial term of the Agreement and any renewal term(s) are collectively referred to as the "Term".

2.2 Renewal Terms. City shall have the right in its sole discretion to renew this Agreement for an additional two (2) year term according to the following procedure:

2.2.1 If City desires to exercise an option to renew, it will submit legislation authorizing such renewal for consideration by City's Council and Mayor prior to the expiration of the prior Term. The legislation will establish that the date of such renewal will be the day immediately following the expiration day of the prior Term;

3. If such legislation is enacted, within (5) five days of such enactment, City will notify Service Provider of such renewal, at which time Service Provider shall be bound to provide Services during such renewal Term, without the need for the Parties to execute any further

documents evidencing such renewal, it being acknowledged by Service Provider that its initial execution of this Agreement is deemed its agreement to continue to provide Services during any renewal Term.

#### **4. Interpretation.**

4.1 All capitalized terms used in this Agreement shall have the meanings ascribed to them in the Contract Documents and on **Exhibit B** attached hereto.

4.2 If there is a conflict between any of the Contract Documents, precedence shall be given in the following order:<sup>1</sup>

1. Agreement
2. Exhibit A – Services and Additional Compensation Terms
3. Exhibit A.1—Cost Proposal
4. Exhibit B – Definitions
5. Exhibit D - City Security Policies
6. Exhibit E - Dispute Resolution Procedures
7. Appendix A - Office of Contract Compliance Requirements
8. Appendix B - Insurance and Bonding Requirements
8. Additional Contract Documents

5. **Authorization.** If applicable, this Agreement is authorized by legislation adopted by City which is attached as **Exhibit C**.

#### **6. Services.**

6.1 **Description of Services.** Service Provider agrees to provide to City the Services per this Agreement. Exhibit A sets forth the following: (a) the period of time during which the Services will be provided; (b) a description of the Services to be provided; (c) the amounts payable and payment schedule for the Services; and (d) any additional provisions applicable to the Services. If any services to be performed are not specifically included on Exhibit A, but are reasonably necessary to accomplish the purpose of this Agreement, they will be deemed to be implied in the scope of the Services to the same extent as if specifically described on **Exhibit A**.

6.2 **Resources.** Unless otherwise expressly provided in this Agreement, all equipment, software, Facilities and Service Provider Personnel required for the proper performance of Services shall be furnished by and be under the control of Service Provider. Service Provider shall be responsible, at its sole cost, for procuring and using such resources in proper and qualified and high quality working and performing order.

#### **6.3 Change Documents.**

6.3.1 This section will govern changes to the Agreement, whether such changes involve an increase in the Maximum Payment Amount or not. Changes in the Services or other

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<sup>1</sup> For purposes of this provision, authorized changes to an item listed in the order of precedence pursuant to a Change Document take precedence over the particular item changed.

aspects of this Agreement shall be made by written document ("Change Document" or "Unilateral Change Document").<sup>2</sup> All changes shall be implemented pursuant to this subsection (the "Change Document Procedures") and any Applicable Law.

6.3.2 Potential Change Documents that may be issued concerning this Agreement include, but are not limited to:

(a) Change Documents to the Agreement involving an increase to the Maximum Payment Amount executed between City and Service Provider which may or may not require legislative approval under Code Section 2-1292;

(b) Change Documents to the Agreement involving no increase to the Maximum Payment Amount, changes in the value of the Charges or changes in the terms or amounts of compensation under the Maximum Payment Amount executed between City and Service Provider pursuant to Code Section 2-1292(d); and

(c) Unilateral Change Documents to the Agreement issued by City pursuant to Code Section 2-1292(d) involving no increase to the Maximum Payment Amount, changes in the value of the Charges or changes in the terms or amounts of compensation under the Maximum Payment Amount.

Change Documents that do not involve an increase in the Maximum Payment Amount will be executed pursuant to Code Section 2-1292(d) either bilaterally or unilaterally by City.

6.3.3 City may propose a change in the Services or other aspects of this Agreement by delivering written notice to Service Provider describing the requested change ("Change Request"). Within ten (10) days of receipt of City's Change Request, Service Provider shall evaluate it and submit a written response ("Proposed Change Document"). A Change Request which involves the reduction of Services shall be effective upon written notice to Service Provider.

6.3.4 Service Provider may, without receiving any Change Request, on its own submit a Proposed Change Document describing its own proposed requested change to the Agreement.

6.3.5 Each Proposed Change Document shall include the applicable schedule for implementing the proposed change, any applicable changes to the Charges (either increased or decreased) and all other information applicable to the proposed change. Each Proposed Change Document shall constitute an offer by Service Provider and shall be irrevocable for a period of sixty (60) days. City shall review and may provide Service Provider with comments regarding a Proposed Change Document, and Service Provider shall respond to such comments, if any. A Proposed Change Document from Service Provider will become effective only when executed by an authorized representative of City.

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<sup>2</sup> Change Documents may assume numerous multiple forms and titles depending on the nature of the change involved (e.g. Change Order, Unilateral Change Order, Amendment, Contract Modification, Renewal, etc.).

6.3.6 City may propose any changes to the Agreement, including, but not limited to, changes that it contends do not involve an increase to the Maximum Payment Amount, a change in the Charges or changes in the terms or amounts of compensation under the Maximum Payment Amount, and Service Provider shall, in good faith, evaluate such proposed Change Request. If City and Service Provider are able to reach agreement on such Change Request, each will execute a Change Document concerning such Change Request pursuant to Code Section 2-1292(d). Nothing in this Agreement shall, in the event of disagreement between City and Service Provider concerning a proposed Change Request, or otherwise, prohibit City from issuing a Unilateral Change Document to Service Provider, pursuant to Code Section 2-1292(d), and City and Service Provider agree to resolve their dispute pursuant to the Dispute Resolution Procedures set forth in **Exhibit E**. During the pendency of such dispute, Service Provider shall continue to perform the Services, as changed by such Unilateral Change Document.

6.4 Suspension of Services. City may, by written notice to Service Provider, suspend at any time the performance of any or all of the Services to be performed under this Agreement. Upon receipt of a suspension notice, Service Provider must, unless the notice requires otherwise, (a) immediately discontinue suspended Services on the date and to the extent specified in the notice; (b) place no further orders or subcontracts for materials, services or facilities with respect to suspended Services, other than to the extent required in the notice; and (c) take any other reasonable steps to minimize costs associated with the suspension.

## 7. Service Provider's Obligations.

7.1 Service Provider Personnel. Service Provider shall be responsible, at its own cost, for all recruiting, hiring, training, educating and orienting of all Service Provider Personnel, all of whom shall be fully qualified and shall be authorized under Applicable Law to perform the Services.

7.2 Service Provider Authorized Representative. Service Provider designates the Service Provider Authorized Representative named on page 1 of this Agreement ("Service Provider Authorized Representative") and, such Person shall: (a) be a project executive and employee within Service Provider's organization, with the information, authority and resources available to properly coordinate Service Provider's responsibilities under this Agreement; (b) serve as primary interface and the single-point of communication for the provision of Services by Service Provider; (c) have day-to-day responsibility and authority to address issues relating to the Services; and (d) devote adequate time and efforts to managing and coordinating the Services.

7.3 Qualifications. Upon City's reasonable request, Service Provider will make available to City all relevant records of the education, training, experience, qualifications, work history and performance of Service Provider Personnel.

7.4 Removal of Personnel Assigned to City Contract. Within a reasonable period, but not later than seven (7) days after Service Provider's receipt of notice from City that the continued assignment to the City Contract of any Service Provider Personnel is not in the best interests of City, Service Provider shall remove such Service Provider Personnel from City's Contract. Service Provider will not be required to terminate the employment of such individual. Service Provider will assume all costs associated with the replacement of any Service Provider

Personnel. In addition, Service Provider agrees to remove from City's Contract any Service Provider Personnel who has engaged in willful misconduct or has committed a material breach of this Agreement immediately after Service Provider becomes aware of such misconduct or breach.

7.5 Subcontracting. Unless specifically authorized in this Agreement, Service Provider will not enter into any agreement with or delegate or subcontract any Services to any Third Party without the prior written approval of City, which City may withhold in its sole discretion. If Service Provider subcontracts any of the Services (after having first obtained City's prior written approval, in its sole discretion), Service Provider shall: (i) be responsible for the performance of Services by the subcontractors; (ii) remain City's sole point of contact for the Services; and (iii) be responsible for the payment to any subcontractors.

7.6 Key Service Provider Personnel and Key Subcontractors.

7.6.1 The following Persons are identified by Service Provider as Key Service Provider Personnel under this Agreement:

- (a) \_\_\_\_\_;
- (b) \_\_\_\_\_; and
- (c) \_\_\_\_\_.

7.6.2 The following Persons are identified by Service Provider as Key Subcontractors under this Agreement:

- (a) \_\_\_\_\_;
- (b) \_\_\_\_\_; and
- (c) \_\_\_\_\_.

7.6.3 Service Provider shall not transfer, reassign or replace any Service Provider Key Personnel or Key Subcontractor, except as a result of retirement, voluntary resignation, involuntary termination for cause in Service Provider's sole discretion, illness, disability or death, during the term of this Agreement without prior written approval from City.

7.7 Conflicts of Interest. Service Provider shall immediately notify City in writing, specifically disclosing any and all potential or actual conflicts of interests, which arise or may arise during the execution of its work in the fulfillment of the requirements of the Agreement. City shall make a written determination as to whether a conflict of interest actually exists and the actions to be taken to resolve the conflict of interest.

7.8 Commercial Activities. Neither Service Provider nor any Service Provider Personnel shall establish any commercial activity, issue concessions, or permits of any kind to third Parties for establishing any activities on City property.

7.9 Ethics in Contracts.



7.9.1 Gratuities and Kickbacks. In accordance with the City of Atlanta's Code of Ordinances, Section 2-1484, as may be amended, it shall be unethical for any person to offer, give or agree to give any employee or former employee or for any employee or former employee to solicit, demand, accept or agree to accept from another person a gratuity or an offer of employment in connection with any decision, approval, disapproval, recommendation, preparation or any part of a program requirement or a purchase request, influencing the content of any specification or procurement standard, rendering of advice, investigation, auditing or in any other advisory capacity in any proceeding or application, request for ruling, determination, claim or controversy or other particular matter pertaining to any program requirement or a contract or subcontract or to any solicitation or proposal therefor. Additionally, it shall be unethical for any payment, gratuity or offer of employment to be made by or on behalf of a subcontractor under a contract to the prime contractor or higher tier subcontractor or any person associated therewith as an inducement for the award of a subcontract or order.

7.9.2 Fraud and misrepresentation. Any written or oral information provided by [insert as appropriate "Contractor" or Service Provider"], directly or indirectly related to the performance of the services required by this Agreement, constitutes material representations upon which the City relies for the requirements of the Agreement and compliance with local, state and federal laws, rules and regulations. [Contractor] agrees to notify the City immediately of any information provided to the City that it knows and/or believes to be false and/or erroneous and immediately provide correct information to the City and take corrective action. [Contractor] further agrees to notify the City immediately of any actions or information that it believes would constitute fraud or misrepresentation to the City in performance of this Agreement, whether or not such information actually constitutes fraud and/or misrepresentations, by contacting the Integrity Line 1-800-884-0911. [Contractor] agrees to place signage provided by the City regarding the Integrity Line at the location to which [Contractor's] employees report to perform the services required by this Agreement. [Contractor] acknowledges and agrees that a finding of fraud or other impropriety on the part of the [Contractor] or any of its [subcontractors] may result in suspension or debarment of the [Contractor]; and the City may pursue any other actions or remedies that the City may deem appropriate. [Contractor] agrees to include this clause in its [subcontracts] and take appropriate measures to ensure compliance with this provision.

## **8. City's Authorized Representative.**

8.1 Designation and Authority. City designates the City Authorized Representative named on page 1 of this Agreement (the "City Authorized Representative") who shall: (a) serve as primary interface and the single-point of communication for the provision of Services; (b) have day-to-day responsibility to address issues relating to this Agreement; and (c) to the extent provided under the Code, have the authority to execute any additional documents or changes on behalf of City.

8.2 City's Right to Review and Reject. Any Service or other document or item to be submitted or prepared by Service Provider hereunder shall be subject to the review of the City Authorized Representative. The City Authorized Representative may disapprove, if in the City Authorized Representative's sole opinion the Service, document or item is not in accordance with the requirements of this Agreement or sound professional service principles, or is impractical, uneconomical or unsuited in any way for the purposes for which the Service, document or item is intended. If any of the said items or any portion thereof are so disapproved, Service Provider shall revise the items until they meet the approval of the City Authorized

Representative. However, Service Provider shall not be compensated under any provision of this Agreement for repeated performance of such disapproved items.

## **9. Payment Procedures.**

9.1 General. City will not be obligated to pay Service Provider any amount in addition to the Charges for Service Provider's provision of the Services. Service Provider Personnel hourly rates, reimbursable expenses and other compensable items under this Agreement are set forth on **Exhibit A**.

9.2 Invoices. Service Provider shall prepare and submit to City invoices for payment of all Charges in accordance with **Exhibit A**. Each invoice shall be in such detail and in such format as City may reasonably require. To the extent not set forth on **Exhibit A**, Service Provider shall invoice City monthly for Services rendered.

9.3 Taxes. The Charges are inclusive of all taxes, levies, duties and assessments ("Taxes") of every nature due in connection with Service Provider's performance of the Services. Service Provider is responsible for payment of such Taxes to the appropriate governmental authority. If Service Provider is refunded any Tax payments made relating to the Services, Service Provider shall remit the amount of such refund to City within forty-five (45) days of receipt of the refund.

9.4 Payment. City shall endeavor to pay all undisputed Charges within thirty (30) days of the date of the receipt by City of a properly rendered and delivered invoice. Notwithstanding the forgoing, unless otherwise provided on **Exhibit A**, all undisputed Charges on an invoice properly rendered and delivered shall be payable within forty-five (45) days of the date of receipt by City.

9.5 Disputed Charges. If City in good faith disputes any portion of an invoice, City may withhold such disputed amount and notify Service Provider in writing of the basis for any dispute within thirty (30) days of the later of: (a) receipt of the invoice; or (b) discovery of the basis for any such dispute. City and Service Provider agree to use all reasonable commercial efforts to resolve any disputed amount in any invoice within thirty (30) days of the date City notifies Service Provider of the disputed amount.

9.6 No Acceptance of Nonconforming Work. No payment of any invoice or any partial or entire use of the Services by City constitutes acceptance of any Services.

9.7 Payment of Other Persons. Prior to the issuance of final payment from City, Service Provider shall certify to City in writing, in a form satisfactory to City, that all subcontractors, materialmen, suppliers and similar firms or persons engaged by Service Provider in connection with this Agreement have been paid in full or will be paid in full utilizing the monies constituting final payment to Service Provider.

## **10. Service Provider Representations and Warranties.** As of the Effective Date and continuing throughout the Term, Service Provider warrants to City that:

10.1 Authority. Service Provider is duly incorporated or formed, validly existing and is in good standing under the laws of the state in which it is incorporated or formed, and is in good standing in each other jurisdiction where the failure to be in good standing would have a

material adverse affect on its business or its ability to perform its obligations under this Agreement. Service Provider has all necessary power and authority to enter into and perform its obligations under this Agreement, and the execution and delivery of this Agreement and the consummation of the transactions contemplated by this Agreement have been duly authorized by all necessary actions on its part. This Agreement constitutes a legal, valid and binding obligation of Service Provider, enforceable against it in accordance with its terms. No action, suit or proceeding in which Service Provider is a party that may restrain or question this Agreement or the provision of Services by Service Provider is pending or threatened.

10.2 Standards. The Services will be performed in a workmanlike manner in accordance with the standards imposed by Applicable Law and the practices and standards used in well managed operations performing services similar to the Services.

10.3 Conformity. The development, creation, delivery, provision, implementation, testing, maintenance and support of all Services shall conform in all material respects to the description of such Services in the Contract Documents.

10.4 Materials and Equipment. Any equipment or materials provided by Service Provider shall be new, of clear title, not subject to any lien or encumbrance, of the most suitable grade of their respective kinds for their intended uses, shall be free of any defect in design or workmanship and shall be of merchantable quality and fit for the purposes for which they are intended.

## **11. Compliance with Laws.**

11.1 General. Service Provider and its subcontractors will perform the Services in compliance with all Applicable Laws.

11.2 City's Socio-Economic Programs. Service Provider shall comply with Appendix A and any applicable City socio-economic programs, including, but not limited to, City's EBO and EEO Programs, and requirements set forth in the Code in the performance of the Services.

11.3 Consents, Licenses and Permits. Service Provider will be responsible for, and the Charges shall include the cost of, obtaining, maintaining and complying with, and paying all fees and taxes associated with, all applicable licenses, authorizations, consents, approvals and permits required of Service Provider in performing Services and complying with this Agreement.

## **12. Confidential Information.**

12.1 General. Each Party agrees to preserve as strictly confidential all Confidential Information of the other Party for two (2) years following the expiration or termination of this Agreement; provided, however, that each Party's obligations for the other Party's Confidential Information that constitutes trade secrets pursuant to Applicable Laws will continue for so long as such Confidential Information continues to constitute a trade secret under Applicable Law. Any Confidential Information that may be deemed Sensitive Security Information by the Department of Homeland Security or any other similar Confidential Information related to security will be considered trade secrets. Upon request by City, Service Provider will return any trade secrets to City. Each Party agrees to hold the Confidential Information of the other in trust and confidence and will not disclose it to any Person, or use it (directly or indirectly) for its own

benefit or the benefit of any other Person other than in the performance of its obligations under this Agreement.

12.2 Disclosure of Confidential Information or Information Other Party Deems to be Confidential Information. Each Party will be entitled to disclose any Confidential Information if compelled to do so pursuant to: (i) a subpoena; (ii) judicial or administrative order; or (iii) any other requirement imposed upon it by Applicable Law. Prior to making such a disclosure, to the extent allowed pursuant to Applicable Law, each Party shall provide the other with thirty six (36) hours prior notice by facsimile of its intent to disclose, describing the content of the information to be disclosed and providing a copy of the pleading, instrument, document, communication or other written item compelling disclosure or, if not in writing, a detailed description of the nature of the communication compelling disclosure with the name, address, phone number and facsimile number of the Person requesting disclosure. Should the non-disclosing Party contest the disclosure, it must: a) seek a protective order preventing such disclosure; or b) intervene in such action compelling disclosure, as appropriate. This Section shall be applicable to information that one Party deems to be Confidential Information but the other Party does not.

### **13. Work Product.**

13.1 Except as otherwise expressly provided in this Agreement, all reports, information, data, specifications, computer programs, technical reports, operating manuals and similar work or other documents, all deliverables, and other work product prepared or authored by Provider or any of its contractors exclusively for the City under this Agreement, and all intellectual property rights associated with the foregoing items (collectively, the "Work Product") shall be and remain the sole and exclusive property of the City. Any of Provider's or its contractors' works of authorship comprised within the Work Product (whether created alone or in concert with City or Third Party) shall be deemed to be "works made for hire" and made in the course of services rendered and, whether pursuant to the provisions of Section 101 of the U.S. Copyright Act or other Applicable Law, such Work Product shall belong exclusively to City. Provider and its contractors grant the City a non-exclusive, perpetual, worldwide, fully paid up, royalty-free license to all Work Product not exclusively developed for City under this Agreement.

13.2 If any of the Work Product is determined not to be a work made for hire, Service Provider assigns to City, worldwide and in perpetuity, all rights, including proprietary rights, copyrights, and related rights, and all extensions and renewals of those rights, in the Work Product. If Service Provider has any rights to the Work Product that cannot be assigned to City, Service Provider unconditionally and irrevocably waives the enforcement of such rights and irrevocably grants to City during the term of such rights an exclusive, irrevocable, perpetual, transferable, worldwide, fully paid and royalty-free license, with rights to sublicense through multiple levels of sublicensees, to reproduce, make, have made, create derivate works of, distribute, publicly perform and publicly display by all means, now known or later developed, such rights.

13.3 City shall have the sole and exclusive right to apply for, obtain, register, hold and renew, in its own name or for its own benefit, all patents, copyrights, applications and registrations, renewals and continuations and all other appropriate protection.

13.4 To the extent exclusive title or complete and exclusive ownership rights in any Work Product created by Service Provider Personnel may not originally vest in City by operation of Applicable Law, Service Provider shall, immediately upon request, unconditionally and irrevocably assign, transfer and convey to City all rights, title and interest in the Work Product.

13.5 Without any additional cost to City, Service Provider Personnel shall promptly give City all reasonable assistance and execute all documents City may reasonably request to enable City to perfect, preserve, enforce, register and record its rights in all Work Product. Service Provider irrevocably designates City as Service Provider's agent and attorney-in-fact to execute, deliver and file, if necessary, any documents necessary to give effect to the provisions of this Section and to take all actions necessary, in Service Provider's name, with the same force and effect as if performed by Service Provider.

#### **14. Audit and Inspection Rights.**

##### **14.1 General.**

14.1.1 Service Provider will provide to City, and any Person designated by City, access to Service Provider Personnel and to Service Provider owned Facilities for the purpose of performing audits and inspections of Service Provider, Service Provider Personnel and/or any of the relevant information relating to the Services and this Agreement. Such audits, inspections and access may be conducted to: (a) verify the accuracy of Charges and invoices; (b) examine Service Provider's performance of the Services; (c) monitor compliance with the terms of this Agreement; and (d) any other matters reasonably requested by City. Service Provider shall provide full cooperation to City and its designated Persons in connection with audit functions and examinations by regulatory authorities.

14.1.2 All audits and inspections will be conducted during normal business hours (except with respect to Services that are performed during off-hours).

14.1.3 Service Provider shall promptly respond to and rectify the deficiencies identified in and implement changes suggested by any audit or inspection report.

14.1.4 If any audit or inspection of Charges or Services reveals that City has overpaid any amounts to Service Provider, Service Provider shall promptly refund such overpayment and Service Provider shall also pay to City interest on the overpayment amount at the rate of one-half percent (0.5%) per month (or such maximum rate permissible by Applicable Law, if lower) from the date the overpayment was made until the date the overpayment is refunded to City by Service Provider.

14.2 Records Retention. Until the later of: (a) six (6) years after expiration or termination of this Agreement; (b) the date that all pending matters relating to this Agreement (e.g., disputes) are closed or resolved by the Parties; or (c) the date such retention is no longer required to meet City's records retention policy or any record retention policy imposed by Applicable Law, if more stringent than City's policy, Service Provider will maintain and provide access upon request to the records, data, documents and other information required to fully and completely enable City to enforce its audit rights under this Agreement.

## **15. Indemnification by Service Provider.**

15.1 General Indemnity. Service Provider shall indemnify and hold City, its agencies and its and their respective officers, directors, employees, advisors, and agents, successors and permitted assigns, harmless from any losses, liabilities, damages, demands and claims, and all related costs (including reasonable legal fees and costs of investigation, litigation, settlement, judgment, interest and penalties) arising from claims or actions based upon:

(a) Service Provider's or Service Provider Personnel's performance, non-performance or breach of this Agreement;

(b) compensation or benefits of any kind, by or on behalf of Service Provider Personnel, or any subcontractor, claiming an employment or other relationship with Service Provider or such subcontractor (or claiming that this Agreement creates an inherent, statutory or implied employment relationship with City or arising in any other manner out of this Agreement or the provision of Services by such Service Provider Personnel or subcontractor);

(c) any actual, alleged, threatened or potential violation of any Applicable Laws by Service Provider or Service Provider Personnel, to the extent such claim is based on the act or omission of Service Provider or Service Provider Personnel, excluding acts or omissions by or at the direction of City;

(d) death of or injury to any individual caused, in whole or in part, by the tortious conduct of Service Provider or any Person acting for, in the name of, at the direction or supervision of or on behalf of Service Provider; and

(e) damage to, or loss or destruction of, any real or tangible personal property caused, in whole or in part, by the tortious conduct of Service Provider or any Person acting for, in the name of, at the direction or supervision of or on behalf of Service Provider.

15.2 Intellectual Property Indemnification by Service Provider. Service Provider shall indemnify and hold City Indemnitees, harmless from and against any losses, liabilities, damages, demands and claims, and all related costs (including reasonable legal fees and costs of investigation, litigation, settlement, judgment, interest and penalties) arising from claims or actions based upon any of the materials and methodologies used by Service Provider (or any Service Provider agent, contractor, subcontractor or representative), or City's use thereof (or access or other rights thereto) in connection with the Services infringes or misappropriates the Intellectual Property Rights of a Third Party. If any materials or methodologies provided by Service Provider hereunder is held to constitute, or in Service Provider's reasonable judgment is likely to constitute, an infringement or misappropriation, Service Provider will in addition to its indemnity obligations, at its expense and option, and after consultation with City regarding City's preference in such event, either: (A) procure the right for City Indemnitees to continue using such materials or methodologies; (B) replace such materials or methodologies with a non-infringing equivalent, provided that such replacement does not result in a degradation of the functionality, performance or quality of the Services; (C) modify such materials or methodologies, or have such materials or methodologies modified, to make them non-infringing, provided that such modification does not result in a degradation of the functionality, performance

or quality of the materials or methodologies; or (D) create a feasible workaround that would not have any adverse impact on City.

**16. Limitation of Liability.**

16.1 General. THE MAXIMUM AGGREGATE LIABILITY OF CITY HEREUNDER IS LIMITED TO THE TOTAL OF ALL CHARGES ACTUALLY PAID DURING THE CURRENT YEAR UNDER THE AGREEMENT. EXCEPT FOR PROVIDER'S INDEMNITY OBLIGATIONS SET FORTH IN THE SECTION ENTITLED "INDEMNIFICATION BY SERVICE PROVIDER" AND WILLFUL MISCONDUCT OR GROSS NEGLIGENCE BY PROVIDER, NEITHER PARTY SHALL BE LIABLE FOR ANY INDIRECT, CONSEQUENTIAL, OR PUNITIVE DAMAGES (OR ANY COMPARABLE CATEGORY OR FORM OF SUCH DAMAGES, HOWSOEVER CHARACTERIZED IN ANY JURISDICTION), ARISING OUT OF OR RESULTING FROM THE PERFORMANCE OR NONPERFORMANCE OF ITS OBLIGATIONS UNDER THIS AGREEMENT, REGARDLESS OF THE FORM OF ACTION, WHETHER IN CONTRACT, NEGLIGENCE, TORT, STRICT LIABILITY, PRODUCTS LIABILITY OR OTHERWISE, AND EVEN IF FORESEEABLE OR IF SUCH PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

16.2 Exceptions to Limitations. The limitations set forth in the immediate subsection shall not apply to: (a) personal injury, wrongful death or tangible property damage; or (b) any claim involving a violation of any Applicable Law concerning homeland security, terrorist activity or security sensitive information, regardless of the manner in which such damages are characterized.

**17. Insurance and Bonding Requirements.** Service Provider shall comply with the insurance and bonding requirements set forth on **Appendix B.**

**18. Force Majeure.** Neither Party will be liable for default or delay in the performance of its obligations under this Agreement to the extent such default or delay is caused by a Force Majeure Event. Upon the occurrence of a Force Majeure Event, the non-performing Party will be excused from performance or observance of affected obligations for as long as: (a) the Force Majeure Event continues; and (b) the Party continues to attempt to recommence performance or observance to the extent commercially reasonable without delay. If any Force Majeure Event continues for thirty (30) consecutive days, City may, at its option during such continuation, terminate this Agreement, in whole or in part, without penalty or further obligation or liability of City.

**19. Termination.**

19.1 Termination by City for Cause. City may at its option, by giving written notice to Service Provider, terminate this Agreement:

(a) for a material breach of the Contract Documents by Service Provider that is not cured by Service Provider within seven (7) days of the date on which City provides written notice of such breach;

(b) immediately for a material breach of the Contract Documents by Service Provider that is not reasonably curable within seven (7) days;

(c) immediately upon written notice for numerous breaches of the Contract Documents by Service Provider that collectively constitute a material breach or reasonable grounds for insecurity concerning Service Provider's performance; or

(d) immediately for engaging in behavior that is dishonest, fraudulent or constitutes a conflict of interest with Service Provider's obligations under this Agreement or is in violation of any City Ethics Ordinances.

19.2 Re-procurement Costs. In addition to all other rights and remedies City may have, if this Agreement is terminated by City pursuant to the above subsection entitled "**Termination by City for Cause**", Service Provider will be liable for all costs in excess of the Charges for all terminated Services reasonably and necessarily incurred by City in the completion of the Services, including the cost of administration of any agreement awarded to other Persons for completion. If City improperly terminates this Agreement for cause, the termination for cause will be considered a termination for convenience in accordance with the provisions of the Section entitled "**Termination by City for Convenience**".

19.3 Termination by City for Insolvency. City may terminate this Agreement immediately by delivering written notice of such termination to Service Provider if Service Provider: (a) becomes insolvent, as that term may be defined under Applicable Law, or is unable to meet its debts as they mature; (b) files a voluntary petition in bankruptcy or seeks reorganization or to effect a plan or other arrangement with creditors; (c) is adjudicated bankrupt or makes an assignment for the benefit of its creditors generally; (d) fails to deny or contest the material allegations of an involuntary petition filed against it pursuant to any Applicable Law relating to bankruptcy, arrangement or reorganization, which is not dismissed within sixty (60) days; or (e) applies for or consents to the appointment of any receiver for all or any portion of its property.

19.4 Termination by City for Convenience. At any time during the Term of this Agreement, City may terminate this Agreement for convenience upon fourteen (14) days written notice of such termination. Upon a termination for convenience, Service Provider waives any claims for damages, including loss of anticipated profits. As Service Provider's sole remedy and City's sole liability, City will pay Charges for the Services properly performed prior to the notice of termination, plus all reasonable costs for Services performed after the termination, as specified in such notice, and reasonable administrative costs of settling and paying claims arising out of the termination of Services under purchase orders or subcontracts except to the extent any products under such purchase orders or subcontracts can be used by Service Provider in its business within the thirty (30) days following termination. If requested, Service Provider shall substantiate such costs with proof satisfactory to City.

19.5 Termination for Lack of Appropriations. If, during the Term of this Agreement, legislation establishing a Maximum Payment Amount for the following year is not enacted, this Agreement will terminate in its entirety on the last day of the annual term for which a Maximum Payment Amount has been legislatively authorized.

19.6 Effect of Termination. Unless otherwise provided herein, termination of this Agreement, in whole or in part and for any reason, shall not affect: (a) any liabilities or obligations of either Party arising before such termination or out of the events causing such termination; or (b) any remedies to which a Party may be entitled under this Agreement, at law



or in equity. Upon termination of this Agreement, Service Provider shall immediately: (i) discontinue Services on the date and to the extent specified in the notice and place no further purchase orders or subcontracts to the extent that they relate to the performance of the terminated Services; (ii) inventory, maintain and turn over to City all work product, licenses, equipment, materials, plant, tools, and property furnished by Service Provider or provided by City for performance of the terminated Services; (iii) promptly obtain cancellation, upon terms satisfactory to City, of all purchase orders, subcontracts, rentals or any other agreements existing for performance of the terminated Services, or assign those agreements, as directed by City; (iv) comply with all other reasonable requests from City regarding the terminated Services; and (v) continue to perform in accordance with all of the terms and conditions of this Agreement any portion of the Services that are not terminated.

## **20. Dispute Resolution.**

20.1 All disputes under the Contract Documents or concerning Services shall be resolved under this **Section** and **Exhibit E**. Both Parties shall continue performing under this Agreement while the Parties are seeking to resolve any such dispute unless, during that time, this Agreement is terminated or expires. A dispute over payment will not be deemed to preclude performance by Service Provider.

20.2 Applicable Law. The Contract Documents shall be governed by and construed in accordance with the substantive laws of the State of Georgia without regard to its choice of law principles.

20.3 Jurisdiction and Venue. The Parties hereby submit and consent to the exclusive jurisdiction of the state courts of Fulton County, Georgia or in the United States District Court for the Northern District of Georgia and irrevocably agree that all actions or proceedings relating to this Agreement will be litigated in such courts, and each of the Parties waives any objection which it may have based on improper venue or forum non conveniens to the conduct of any such action or proceeding in such court.

## **21. General.**

21.1 Notices. Any notice under this Agreement shall be in writing and sent to the respective Party at the address on page 1 of this Agreement, or, if applicable, to the City's Department of Procurement at 55 Trinity Avenue, Suite 1790, Atlanta, Georgia, 30303, and shall be deemed delivered: (a) when delivered by hand or courier or by overnight delivery with signature receipt required; (b) when sent by confirmed facsimile with a copy sent by another means specified in this **Section**; or (c) three (3) days after the date of mailing by United States certified mail, return receipt requested, postage prepaid. Any Party may change its address for communications by notice in accordance with this Section.

21.2 Waiver. Any waiver by the Parties or failure to enforce their rights under this Agreement shall be deemed applicable only to the specific matter and shall not be deemed a waiver or failure to enforce any other rights under this Agreement, and this Agreement shall continue in full force and effect as though such previous waiver or failure to enforce any rights had not occurred. No supplement, modification, amendment or waiver of this Agreement will be binding on City unless executed in writing by the City Authorized Representative.

21.3 Assignment. Neither this Agreement, nor any rights or obligations under it, are assignable in any manner without the prior written consent of the other Party and any attempt to do so without such written consent shall be void ab initio.

21.4 Publicity. Service Provider shall not make any public announcement, communication to the media, take any photographs or release any information concerning City, the Services or this Agreement without the prior written consent of City.

21.5 Severability. In the event that any provision of this Agreement is declared invalid, unenforceable or unlawful, such provision shall be deemed omitted and shall not affect the validity of other provisions of this Agreement.

21.6 Further Assurances. Each Party shall provide such further documents or instruments required by the other Party as may be reasonably necessary to give effect to this Agreement.

21.7 No Drafting Presumption. No presumption of any Applicable Law relating to the interpretation of contracts against the drafter shall apply to this Agreement.

21.8 Survival. Any provision of this Agreement which contemplates performance subsequent to any termination or expiration of this Agreement or which must survive in order to give effect to its meaning, shall survive the expiration or termination of this Agreement.

21.9 Independent Contractor. Service Provider is an independent contractor of City and nothing in this Agreement shall be deemed to constitute Service Provider and City as partners, joint venturers, or principal and agent, or be construed as requiring or permitting the sharing of profits or losses. Neither Party has the authority to represent or bind or create any legal obligations for or on behalf of the other Party.

21.10 Third Party Beneficiaries. This Agreement is not intended, expressly or implicitly, to confer on any other Person any rights, benefits, remedies, obligations or liabilities.

21.11 Cumulative Remedies. Except as otherwise provided herein, all rights and remedies under this Agreement are cumulative and are in addition to and not in lieu of any other remedies available under Applicable Law, in equity or otherwise.

21.12 Entire Agreement. The Contract Documents contain the entire Agreement of the Parties relating to their subject matter and supersede all previous communications, representations or agreements, oral or written, between the Parties with respect to such subject matter. This Agreement may only be amended or modified by a writing executed by each Party's authorized representative and each such writing shall be deemed to incorporate the Contract Documents, except to the extent that City is authorized under Applicable Law to issue Unilateral Change Documents. SERVICE PROVIDER MAY NOT UNILATERALLY AMEND OR MODIFY THIS AGREEMENT BY INCLUDING PROVISIONS IN ITS INVOICES, OR OTHER BUSINESS FORMS, WHICH SHALL BE DEEMED OBJECTED TO BY CITY AND OF NO FORCE OR EFFECT.

21.13 Unauthorized Goods or Services. Service Provider acknowledges that this Agreement and any changes to it by amendment, modification, change order or other similar document may have required or may require the legislative authorization of the City's Council

and approval of the Mayor. Under Georgia law, Service Provider is deemed to possess knowledge concerning the City's ability to assume contractual obligations and the consequences of Service Provider's provision of goods or services to the City under an unauthorized contract, amendment, modification, change order or other similar document, including the possibility that the Service Provider may be precluded from recovering payment for such unauthorized goods or services. Accordingly, Service Provider agrees that if it provides goods or services to the City under a contract that has not received proper legislative authorization or if Service Provider provides goods or services to the City in excess of the any contractually authorized goods or services, as required by the City's Charter and Code, the City may withhold payment for any unauthorized goods or services provided by Service Provider. Service Provider assumes all risk of non-payment for the provision of any unauthorized goods or services to the City, and it waives all claims to payment or to other remedies for the provision of any unauthorized goods or services to the City, however characterized, including, without limitation, all remedies at law or equity.

The Parties hereto by authorized representatives have executed this Agreement as of the Effective Date.

**City of Atlanta**

**[Service Provider]**

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**Mayor**

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**Municipal Clerk (Seal)**

**Approved:**

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**Department of Corrections**

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**Chief Procurement Officer**

**Approved as to form:**

---

**City Attorney**

**Signature Block Options for Service Provider:**

**Corporate signature:**

**[Insert Corporate Name]**

\_\_\_\_\_

**By:** \_\_\_\_\_

**Name:** \_\_\_\_\_

**Title:** \_\_\_\_\_

\_\_\_\_\_  
**Corporate Secretary/Assistant  
Secretary (Seal)**

**Limited Liability Company:**

**[Insert LLC Name]**

\_\_\_\_\_

**By:** \_\_\_\_\_

**Name:** \_\_\_\_\_

**Title:** \_\_\_\_\_

\_\_\_\_\_  
**Notary Public (Seal)**

**My Commission Expires:** \_\_\_\_\_

**Exhibit A**  
**Scope of Services**

**Exhibit A**  
**Scope of Services**  
**FC-7522, Inmate Pharmacy Services on Behalf of DOC**

## **Introduction**

The City of Atlanta (the "City") Department of Procurement is soliciting proposals on behalf of the Department of Corrections ("DOC") Health Services Unit, in order to secure pharmacy services for approximately 1200 inmates housed in the Atlanta City Detention Center ("ACDC") located in Atlanta, Georgia. The anticipated term of service shall be for five (5) years with the option to renew for a two (2) year term at the sole discretion of the City.

## **Background**

The inmate population includes both males and females, and health care is provided twenty-four (24) hours per day, seven (7) days per week by appointed and certified medical professionals. Health care problems range from those of an acute nature to those of a chronic nature. Historically, the pharmacy facility has not been managed on-site; and it has been determined that an offsite location is the standard for the performance of future pharmacy services on behalf of ACDC.

### **1.0 Minimum Qualifications**

- 1.1 Each Proponent team member (Service Provider Key Personnel) **must be able to demonstrate a minimum of five (5) years of experience within the last ten (10) years providing pharmacy services.**
- 1.2 The Proponent must maintain and identify in their proposal, a minimum of one (1) back-up point-of-contact that can comply and respond to all components of the Scope of Services, in the event the pharmacist is unavailable.
- 1.3 Direct billing for all Federal Inmates is mandatory and should not be submitted to the City for any monthly invoicing requests.
- 1.4 Proponents are required to maintain an electronic medical records system that is 100% compatible with the City's current Medical Records System *Correctek*.
- 1.5 The Proponent must agree with the appointed City Physician making quarterly site visits to their facility, in order to ensure everything is up to ACA standards.
- 1.6 Each Proponent **MUST** submit with its Proposal, documentation that demonstrates it is duly authorized to conduct business in the State of Georgia.
- 1.7 The Proponent shall fill all prescriptions items daily, Monday through Friday. All prescriptions shall be filled and delivered to ACDC within twenty-four (24) hours, unless otherwise notified. Emergency prescription services shall be provided on a twenty-four (24) hour, seven (7) day a week basis; prescriptions shall be received within four (4) hours in all emergency cases.
- 1.8 **Starter Medication Packages:** The Proponent shall supply a variety of starter medication packages to be used for situations that require the immediate start of medication. The Medical Director and consulting pharmacist will determine the types of medication and the volume of

each product to be kept on site (available to the medical department at all times). Labeling shall be two part and provide appropriate documentation for distribution by staff and replacement by the Proponent. Inventory shall be restocked as needed. The selected consultant for this contract will be given at least 48hr notice of low stocked items in an effort to receive medications timely and avoid shortages.

- 1.9 **Emergency Medications:** Emergency and "crash cart" medications will be established in conjunction with the Medical Director and the consulting pharmacist. The products shall be labeled and organized to facilitate use. The Consultant shall maintain the medication supply, and replace any items with twenty-four (24) hour of usage. In the case of backorders, all backordered medications on behalf of the acquired Proponent will require seven (7) day notification to the City to allow for retrieval of these medications by alternative means.
- 1.10 **Controlled Medications:** Controlled medications shall be supplied in tamper-evident containers and monitored by the Consultant. Controlled drugs may be supplied using a stock supply and proof of use sheets that meet Georgia Pharmacy standards.
- 1.11 **Packaging:** All pharmaceuticals shall be packaged to accommodate rapid distribution to a large volume of patients. This may be accomplished via unit dose calendar cards, blister packs or a similar system which has the approval of the Chief of Corrections as well as the Medical Director. The amount of medication packaged per unit of distribution will be based on the average length of therapy, volume to be distributed and ease of storage within the medial carts themselves. Additional labeling (circular labeling) may be required of the Proponent that will be used for the top and bottom of the container to rapidly identify a medication by an inmate's average length of therapy, volume to be distributed and ease of storage within the medical carts themselves. Additional labeling (circular labeling) may be required of the Proponent that will be used for the top and bottom of the container to rapidly identify a medication by an inmate's name, drug and any additional required FDA information. The cost of the medication shall be taken into account by the Proponent when selecting the size of the packing material (tube, bottle, etc.). Creams and liquids shall be provided in plastic containers whenever possible. The Proponent shall use a system for all pharmaceuticals that will allow a maximum credit on unused pharmaceuticals to the DOC.
- 1.12 **Pharmaceutical Labeling:** The pharmaceutical label will contain the following information:
- The facility name and address;
  - The inmate's name;
  - Directions for used and cautionary statements;
  - Product name, strength and quantity;
  - Product identification number;
  - Dispensing date;
  - Wholesale price verses discounted price;
  - Dispensing registered pharmacist's initials; and
  - Expiration date for medication.
- 1.13 **Generic Substitution:** Generic substitutions are required unless the use of a generic substitute is not clinically prudent as determined by the Medical Director or unavailable altogether. The consulting pharmacist will be available to the City's medical staff to assist in making pharmacological decisions which are directed towards cost-efficiency for the department.



1.14 **Reports:** The Proponent will provide a variety of reports that will included, but will not be limited to the following:

- **Medication Administration Records:** These shall be supplied for each inmate receiving medication and contain the same information as required on the pharmaceutical label for mediations. The records shall be available to the DOC staff at a minimum of 1 week prior to the start of each month. Blank MARs and Treatment records shall be provided by the Proponent for staff use in transcribing new orders for patients of initiating medication on inmates newly booked into the facility on a monthly basis.
- **Usage Reports:** The Proponent shall supply monthly, quarterly and yearly usage reports to the Medical Director. The Consultant shall supply the monthly reports of usage in the following manner:
  - a) Individual patient, medication name, strength, number dispensed and cost;
  - b) Medication name, strength, quantity dispensed, cost, number of prescriptions and number of returns; and
  - c) Prescribing physician name, medication name, strength, quantity dispensed, cost and number of prescriptions.

1.15 Quarterly and year-end reports shall be listed by medication name, strength, number dispensed, cost, and number of prescriptions. All reports shall be in alphabetical order and in a user-friendly format. Quarterly reports are due by the tenth (10<sup>th</sup>) day of the month following the quarter. Reports are to be provided on paper and electronically.

1.16 **Credit Reports:** The Proponent shall present a credit report of returned pharmaceuticals at the time that the invoice is presented for payment. Total credit amounts shall be printed on the invoice. The Proponent shall notify the Department of Procurement (DOP) and Health Services Department in writing of any changes in credit procedures.

1.17 **Medication Profile:** The Proponent is responsible for maintaining an individual mediation profile on each inmate, which will be requested by the DOC. This will include all demographic information and allergy history. The medication profile is the property of the DOC and will be made available by the Proponent using a digital file to the next successive pharmaceutical Proponent is selected for the next contract period.

1.18 **Pharmaceutical Inventory:** The Proponent will be responsible for maintaining an adequate supply of starter mediations and controlled mediations. The Proponent is responsible for making sure sufficient mediation is always on hand.

1.19 The Proponent shall provide two (2) heavy duty facsimile machines during the transition month. All phone line installation costs will be absorbed by the Correction Facility. The facsimile machines(s) will be used to immediately transmit pharmacy orders and re-orders.

1.20 **Delivery:** The Proponent shall provide a minimum of one delivery each day Monday through Saturday. The City's DOC reserve the right to request Sunday delivery if the volume or need of pharmaceuticals substantially increases during the contract period. The Proponent shall make arrangements for holiday delivery and advise the City's DOC of the schedule. All deliveries shall be accompanied by a delivery receipt and signed by the nursing supervisor or designee upon arrival. All delivery charges shall be included in the dispensing fee and will not be paid separately.

- 1.21 **Unavailable Pharmaceuticals:** If for any reasons a product is not available through normal ordering procedures, the Proponent shall notify the Medical Director or designee in writing and provide postings for nursing staff. This type of situation should occur rarely as the Proponent is expected to supply the requested medications. Any shortages should be corrected within 24hrs. Approved non-formulary items shall be obtained within three (3) working days. Medications which are unavailable on a consistent basis will be reviewed with the Proponent as a performance issue by the Medical Director and may warrant termination of this contract.
- 1.22 **Credit:** The Proponent will provide the maximum amount of credit for any pharmaceutical which have not been used or are eligible for return. The Proponent will provide a written procedure for returns and provide any necessary forms which are used to document credits.
- 1.23 **Pharmaceutical Destruction:** The Proponent will be responsible for destroying any medication which has been dispensed for specific inmates who are no longer with the facility or otherwise may not be re-distributed. The Proponent will be responsible for maintaining destruction records and making a report available to the Medical Director. At the end of the contract period, the Proponent will be responsible for removing any and all medications if the Consultant's contract is not renewed with the City's DOC.
- 1.24 **Storage:** The DOC will provide appropriate storage areas for controlled medications, starter medications and medications requiring refrigeration. The Proponent is responsible for making sure that the storage areas meet D.E.A., Georgia Board of Pharmacy and Georgia Nursing Board rules and regulations.
- 1.25 **Medication Carts:** The Proponent will provide sufficient numbers of heavy duty medication and treatment carts to the DOC to accommodate the volume of pharmaceuticals that need to be distributed to the inmate population. The carts shall be in good working condition and be able to withstand movement via elevator transport from floor to floor.
- 1.26 The Proponent will be responsible for all cart maintenance and emergency repairs. All emergency repairs need to be responded to within one working day and repairs completed within a reasonable time period based on the availability of parts. It is acceptable to replace a cart with an equivalent substitute in the interim.
- 1.27 **Consulting Services and Education:**
- **Telephone Consultation:** The Proponent shall provide telephone consultation with a staff pharmacist(s) as part of the overall service component. Consultation services include answering inquiries about a medication or particular inmate. A pharmacist shall be available on call after hours for emergency consultations.
  - **Staff Education:** The Proponent is required to provide at least one in service course per quarter to nursing staff whose topics meet the approval the Medical Director or his/her designee. The schedule, including day and time, shall meet the approval of the Medical Director or his/her designee.

**1.28 Invoicing:**

- The Proponent must supply separate, month, itemized invoices with the following information provided:
  - a) Inmate name;
  - b) Individual prescriptions provided, amount, unit price and total price per item;
  - c) Monthly total; and
  - d) The Proponent must supply additional, separate invoicing if any, regarding lease costs for consulting services and equipment if applicable.
- The invoices must be submitted monthly on a mutually agreed upon date. There will be a designated party assigned to review all billing prior to authorization. Any discrepancies will be reported to the Proponent in writing. Payment for discrepancies will be withheld until the Proponent provided a satisfactory explanation in writing to the City's DOC designee.

**1.29 Failure to Deliver:**

- It is understood and agreed that in the event the Proponent fails to deliver the kind, quantity of material, labor or services herein specified, as and when ordered by the DOC, the City may elect, without notice, purchase said materials. Any additional costs or expenses incurred thereby will be charged against any current or future invoices submitted by the Proponent to the DOC.

**\*\*\*END OF SCOPE OF SERVICES\*\*\***

**Exhibit A.1**  
**Pricing Information**

**Exhibit D: Pricing Information**  
**FC-7522, Inmate Pharmacy Services on Behalf of DOC**

Please indicate in your proposal the amount charged to the City of Atlanta for both generic and brand medications; *minus a fixed percentage discount*. This fixed percentage discount shall take into consideration all business expenses that may be associated with the nature of doing business (e.g., personnel, administrative, overtime, back fill tracking, insurance, quality control, etc.) that will be assumed by the Proponent for providing pharmacy services to the DOC.

Additionally, provide a detailed narrative for the percentages proposed to the City. These rationales should supply the City with a clear summary of your intentions for compensation and verify your commitment to remain in line with industry standards for pharmacy services. Finally, it is required that each Proponent provide a current pricing sheet for all generic and brand medications offered within their pharmacy facility.

Wholesale Price (*Minus*) \_\_\_\_\_ % discount offered (for each generic medication)

Wholesale Price (*Minus*) \_\_\_\_\_ % discount offered (for each brand medication)

**\*\*What is the maximum amount of credit offered for any medications not used and are eligible for return:** \_\_\_\_\_

Yes, I agree to honor the above-referenced Rates and place the medication prices on all products. Additionally, there will be a distinction made on the product for the wholesale price verses the discounted price for each product provided to the DOC; as well as on the administrative records:

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Printed Name and Title: \_\_\_\_\_

Signature Block Options for Service Provider:

Corporate signature:

[Insert Corporate Name]

\_\_\_\_\_

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

\_\_\_\_\_

Corporate Secretary/Assistant

Secretary (Seal)

Limited Liability Company:

[Insert LLC Name]

\_\_\_\_\_

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

\_\_\_\_\_

Notary Public (Seal)

My Commission Expires: \_\_\_\_\_

**\*\*\*END OF PRICING INFORMATION\*\*\***

## **Exhibit B**

### **Definitions**

When used in the Contract Documents, the following capitalized terms have the following meanings:

"Applicable Law(s)" means all federal, state or local statutes, laws ordinances, codes, rules, regulations, policies, standards, executive orders, consent orders, orders and guidance from regulatory agencies, judicial decrees, decisions and judgments, permits, licenses, reporting or other governmental requirements or policies of any kind by which a Party may be bound, then in effect or which come into effect during the time the Services are being performed, and any present or future amendments to those Applicable Laws, including those which specifically relate to: (a) the business of City; (b) the business of Service Provider or Service Provider's subcontractors; (c) the Agreement and the Contract Documents; or (d) the performance of the Services under this Agreement.

"Charges" means the amounts payable by City to Service Provider under this Agreement.

"City Security Policies" means the policies set forth in **Exhibit D**.

"Code" means the Code of Ordinances for the City of Atlanta, Georgia, as amended.

"Contract Documents" include this Agreement and the exhibits and other documents attached or referenced herein as well as any authorized changes or addenda hereto.

"Facility" or "Facilities" means the physical premises, locations and operations owned or leased by a Party and from or through which Service Provider will provide any Services.

"Force Majeure Event(s)" means acts of war, domestic and/or international terrorism, civil riots or rebellions, quarantines, embargoes and other similar unusual governmental actions, extraordinary elements of nature or acts of God.

"Party" or "Parties" means City and/or Service Provider.

"Person" means individuals, partnerships, agents, associations, corporations, limited liability companies, firms or other forms of business enterprises, trustees, executors, administrators, successors, permitted assigns, legal representatives and/or other recognized legal entities.

Responsible Bidder- means any person who has the capability in all respects to perform fully the contract requirements and the tenacity, perseverance, experience, integrity, reliability, capacity, facilities, equipment and credit which will ensure good faith performance.

Responsive Bidder - means a person who has submitted a bid or offer which conforms in all material respect to the invitation for bids or request for proposals. A Bid which is accurate and complete, with respect to Bid Schedules and information submitted relative to the technical qualifications, financial responsibility and is able to comply with Equal Opportunity and other requirements of the Agreement Documents.

Non-Responsible Bidder - would be the opposite of above-referenced definition.

Non-Responsive Bidder - would be the opposite of above-referenced definition.

"Service Provider Personnel" means and refers to Service Provider employees or subcontractors hired and maintained to perform Services hereunder.

"Third Party" means a Person other than the Parties.

**Exhibit C**  
**Authorizing Legislation**  
**(To be inserted in final Agreement)**



**Exhibit D**  
**City Security Policies**

## **Security Policies Associated with the City's Department of Corrections Facility**

It is the policy of the City's (the "City") Department of Corrections ("DOC"), to prohibit the introduction of contraband by monitoring and controlling movement into and throughout the facility. Proponents agree to follow all City DOC policies and procedures to control the introduction of contraband, ensure facility safety, security, and good order, prevent escapes, maintain sanitary standards and eliminate fire and safety hazards.

**Exhibit E**  
**Dispute Resolution Procedures**

1. If Service Provider contends it is entitled to compensation or any other relief from City or if there are any disagreements over the scope of Services or proposed changes to the Services, Service Provider shall, without delay and within three (3) days of being aware of the circumstances giving rise to Service Provider's claim, provide written notice of its claim to City. If Service Provider fails to give timely notice as required by this subsection or if Service Provider commences any alleged additional work without first providing notice, Service Provider shall not be entitled to compensation or adjustment for any such work to the extent timely notice was not provided. Such notice shall include sufficient information to advise City of the circumstances giving rise to the claim, the specific contractual adjustment of relief requested and the basis for such request. Within ten (10) days of the date that Service Provider's written notice to City is required under this subsection, Service Provider shall submit a Proposed Change Document relating to the claim meeting the requirements of Subsection 5.3.2 of this Agreement.

The parties are fully committed to working with each other throughout the Project and agree to communicate regularly with each other at all times so as to avoid or minimize disputes or disagreements. If disputes or disagreements do arise, Service Provider and City each commit to resolving such disputes or disagreements in an amicable, professional and expeditious manner so as to avoid unnecessary losses, delays and disruptions to the Services.

If a dispute or disagreement cannot be resolved informally Service Provider Authorized Representative and Authorized City Representative, upon the request of either party, shall meet as soon as conveniently possible, but in no case later than thirty (30) days after such a request is made, to attempt to resolve such dispute or disagreement. Prior to any meetings between the Authorized Representatives, the parties will exchange relevant information that will assist the parties in resolving their dispute or disagreement.

If City and Service Provider are still unable to resolve their dispute, each agrees to consider submitting such dispute to mediation or other acceptable form of alternate dispute resolution.

## **Appendix A**

### **OCC Requirements**



## CITY OF ATLANTA

Kasim Reed  
Mayor

SUITE 1700  
55 TRINITY AVENUE, SW  
ATLANTA, GA 30303  
(404) 330-6010 Fax: (404) 658-7359  
Internet Home Page: [www.atlantaga.gov](http://www.atlantaga.gov)

OFFICE OF  
CONTRACT COMPLIANCE  
Hubert Owens  
Director  
[howens@atlantaga.gov](mailto:howens@atlantaga.gov)

**July 10, 2014**

**RE: Project No.: FC#7522, Inmate Pharmacy Services (RFP)**

Dear Prospective City of Atlanta Bidder:

The above referenced contracting opportunity has been designated for **competition by and between City of Atlanta Certified Small Business Enterprises (SBEs) only**. The Office of Contract Compliance (OCC) information is an integral part of every City of Atlanta bid. All Bidders are required to make efforts to demonstrate compliance with all program requirements at or prior to the time of Bid opening, or upon request by OCC. Sheltered market program requirements mandate that the successful City of Atlanta Certified SBE awardee self perform a percentage of the work scope associated with the contract. The successful proponent will receive participation credit for the dollar value of its' self performance. Bidders are required to ensure that all prospective subcontractors, vendors, suppliers and other potential participants are not denied opportunities to compete for work on a City contract and afford all firms, including Small Business Enterprises (SBE) opportunities to participate in the performance of the business of the City to the extent of their availability, capacity and willingness to compete. Pay close attention to the specific SBE sheltered market goals for this project and the SBE sheltered market program reminders listed on page 5.

Additionally, as the City of Atlanta is developing its Small Business Enterprise database, prime bidders are encouraged to utilize OCC's self certification application to achieve SBE certification. All firms interested in bidding on this project must be certified as a SBE with the City of Atlanta or have an application for SBE certification submitted to OCC no later than the date and time of the bid opening. City of Atlanta Certified SBE prime proponents must meet the size standards of the United States Small Business Administration Guidelines related to Business Consultants [see 13 C.F.R. § 121.201 (and further explained in 13 C.F.R. §§ 121.104 through 121.107)]. These requirements may be accessed via the internet by visiting: <http://ecfr.gpoaccess.gov/> and choosing "Title 62 – Offices of Pharmacist" from the browse-able drop down field.

If you have any questions about the information included in this section of the solicitation, please contact the City of Atlanta Office of Contract Compliance at (404) 330-6010.

**The City of Atlanta looks forward to the opportunity to do business with your company.**

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## **CITY OF ATLANTA**

### **SMALL BUSINESS ENTERPRISE SHELTERED MARKET**

#### **POLICY STATEMENT**

It is the policy of the City of Atlanta to promote full and equal business opportunity for all persons doing business with the City. On a contract by contract basis, the director of the office of contract compliance in consultation with the Chief Procurement Officer will designate certain procurements as **sheltered market procurement opportunities**. The purpose of the Small Business Enterprise Sheltered Market Program is to ensure that the City of Atlanta has a robust race-neutral approach to promoting full and equal business opportunity for all persons doing business with the City of Atlanta. Additionally, The City seeks to promote the growth and development of small businesses through mandated self performance of minimum threshold portions of the scope of the contracting opportunities. The City believes this approach assists in its' effort to promote commerce by assisting SBEs to actively participate in the City's procurement process, and ensure that the City of Atlanta utilizes programs that provide it with the best possible resources. SBE sheltered market requirements and goals for this project are set forth on page 6.

### **Implementation of SBE Sheltered Market Policy**

The sheltered market designation shall be made only when there is a reasonable expectation that bids will be obtained from at least three responsible COA certified SBEs and that the award will be made at a fair market price. The director of the Office of Contract Compliance and Chief Procurement Officer may agree, with consultation and agreement with the Commissioner of the user agency or his or her designee, to designate certain contracts of a pre-determined expected dollar value for **competition by and between SBEs only**, except for those contracts pertaining to Municipal Street Systems, as described in O.C.G.A. § 32-4-1 et seq., pertaining to public works construction as described in O.C.G.A. § 36-91-1 et seq. or other projects for which a sheltered market would conflict with state law. A sheltered market procurement of a single acquisition or a class of acquisitions may be total or partial. The director of the Office of Contract Compliance and the Chief Procurement Officer may designate a portion of an acquisition as a sheltered market procurement, except for construction.

### **OCC Review of Bidder Submissions**

The Office of Contract Compliance shall determine whether a Bidder has satisfied "certified SBE prime proponent" requirement of the sheltered market program. All proponents for an SBE sheltered market procurement must be SBE certified by the Office of Contract Compliance or have an application pending on or before bid due dates. Where applicable, OCC will determine whether a certified SBE prime proponent has satisfied the good faith efforts requirement of section 2-1372 based on its review of the Covenant of Non Discrimination, the Outreach Efforts Documentation, the SBE Project Participation Plan, and its review of other relevant facts and circumstances. In reviewing the documents submitted by a Bidder to determine whether the Bidder has satisfied the good faith outreach practices requirement of this section, the Office of Contract Compliance will consider, among other things, the total project dollars self performed, subcontracted to, and/or expended for services performed by all businesses (including certified SBEs), whether such businesses perform Commercially Useful Functions in the work of the contract based upon standard industry trade practices, whether any amounts paid to Supplier businesses are for goods customarily and ordinarily used based upon standard industry trade practices, and the availability of certified SBEs within the relevant NAICS Codes for such Eligible Project.

### **Small Business Enterprise Program Bid/RFP Submittals**

The Covenant of Non Discrimination, the Outreach Efforts Documentation (where applicable), and any other SBE Sheltered Market Project information required by OCC in the solicitation document must be completed in their entirety by each Proponent and submitted with the other required Bid/RFP documents in order for the Bid/RFP to be considered responsive. All SBE prime proponents seeking to receive participation credit must be certified by the City of Atlanta OCC, or have an application pending at the time of the solicitation due date. Failure to timely submit these forms, fully completed, will result in the Bid/RFP being considered as non-responsive, and therefore, excluded from consideration.

### **Monitoring Of SBE Sheltered Market Policy**

Upon execution of a contract with the City of Atlanta, the successful bidder's SBE Sheltered Market Project Participation Plan will become a part of the contract between the bidder and the City of Atlanta. The SBE Sheltered Market Project Participation Plan will be monitored by the City of Atlanta's Office of Contract Compliance for adherence with the plan. The successful bidder will be required to provide specific information on a monthly basis that demonstrates the accuracy of reported self performance dollars and percentages, the use of subcontractors and suppliers where applicable as indicated on the SBE Sheltered Market Project Participation Plan. The failure of the successful bidder to provide the specific information by the specified date each month shall be sufficient cause for the City to evoke penalties as set forth in the City of Atlanta Code of Ordinances, Section 2-1373.

### **Implementation of EEO Policy**

The City effectuates its EEO policy by adopting racial and gender work force availability for every contractor performing work for the City of Atlanta. These percentages are derived from the work force demographics set forth in the 2000 Census EEO file prepared by the United States Department of Commerce for the applicable labor pool normally utilized for the contract.

### **Monitoring of EEO Policy**

Upon award of a contract with the City of Atlanta, the successful bidder must submit a Contract Employment Report (CER), describing the racial and gender make-up of the firm's work force. If the CER indicates that the firm's demographic composition does not meet the adopted EEO goals, the firm will be required to submit an affirmative action plan setting forth the steps to be taken to reach the adopted goals. The CER and the affirmative action plan, if necessary, will become a part of the contract between the successful bidder and the City of Atlanta. Compliance with the EEO requirements will be monitored by the Office of Contract Compliance.

### **First Source Jobs Program Policy Statement**

It is the policy of the City of Atlanta to provide job opportunities to the residents of the City of Atlanta, whenever possible. Every contract with the City of Atlanta creates a potential pool of new employment opportunities. The prime contractor is expected to work with the First Source Jobs Program to fill at least 50% of all new entry-level jobs, which arise from this project, with residents of the City of Atlanta. For more specific information about the First Source Jobs Program contact:

**Michael Sterling  
Interim Executive Director  
First Source Jobs Program  
Atlanta Workforce Development Agency  
818 Pollard Boulevard  
Atlanta, GA 30315  
(404) 546-3001**

### **Small Business Enterprise Sheltered Market Goals for this Project**

#### **Project No.: FC# 7522, Inmate Pharmacy Services (RFP)**

The **FC# 7522, Inmate Pharmacy Services (RFP)** project has been designated as a sheltered market opportunity for certified small business enterprises (SBEs). Therefore, there will be no mandatory subcontractor participation goals included in this solicitation.

All firms interested in bidding on this project must be certified as a SBE with the City of Atlanta or have an application for SBE certification submitted to OCC no later than the date and time of the bid opening. City of Atlanta Certified SBE prime proponents must meet the size standards of the United States Small Business Administration Guidelines related to Business Consultants [see 13 C.F.R. § 121.201 (and further explained in 13 C.F.R. §§ 121.104 through 121.107)]. These requirements may be accessed via the internet by visiting: <http://ecfr.gpoaccess.gov/> and choosing "Title 62 – Offices of Pharmacy" from the browse-able drop down field.

If you have any questions about the information included in this section of the solicitation, please contact the City of Atlanta Office of Contract Compliance at (404) 330-6010.

Please be reminded that no Bidder shall be awarded a contract on an Eligible Project unless the Office of Contract Compliance determines that the Bidder has satisfied the good faith efforts requirement of section 2-1372 on such Eligible Project. Details of the OCC review process for determination of non-discrimination are detailed on pages 2 and 3 of this document.

## **Small Business Enterprise Sheltered Market Program Reminders**

1. Certification. It is the prime contractor proponent's responsibility to verify that their own SBE certification and those included on their SBE Sheltered Market Project Participation Plans are current and valid. COA SBE certification with the City of Atlanta's Office of Contract Compliance may be obtained by filing with OCC a self-certification form or a letter or other documentation from the United States Small Business Administration that establishes that the firm qualifies as an 8(a) firm or HUBZone firm.
2. Reporting. The successful bidder must submit monthly SBE participation reports to the Office of Contract Compliance.
3. Subcontractor Contact Form. It is required that bidders list and submit information on all subcontractors they solicit for quotes, all subcontractors who contact them with regard to the project, and all subcontractors they have discussions with regarding the project. Failure to provide complete information on this form will result in your bid being declared non-responsive.
4. SBE Ordinance. The SBE Program is governed by the provisions of the SBE Ordinance set forth in the City of Atlanta Code Division 9 section 2 - 1356 through 2 -1377. The ordinance can be obtained from the City of Atlanta Clerk's Office at (404) 330-6032.
5. Supplier Participation. In order to receive full SBE credit, suppliers must manufacture or warehouse the materials, supplies, or equipment being supplied for use on the Eligible Project.

**COVENANT OF NON-DISCRIMINATION**

The undersigned understands that it is the policy of the City of Atlanta to promote full and equal business opportunity for all persons doing business with the City of Atlanta. The undersigned covenants that we have not discriminated, on the basis of a firm's revenue or employee size with regard to prime contracting, subcontracting or partnering opportunities. The undersigned further covenants that we have completed truthfully and fully the required forms SBE-2 and SBE-3. Set forth below is the signature of an officer of the bidding entity with the authority to bind the entity.

\_\_\_\_\_  
Signature of Attesting Party

\_\_\_\_\_  
Title of Attesting Party

On this \_\_\_\_ day of \_\_\_\_\_, 20 \_\_, before me appeared \_\_\_\_\_, the person who signed the above covenant in my presence.

\_\_\_\_\_  
Notary Public

Seal

**FORM SBE-1**



**OFFICE OF CONTRACT COMPLIANCE**  
**SUBCONTRACTOR CONTACT FORM**

*List all subcontractors or suppliers (SBE and Non-SBE) that were contacted regarding this project*

Name of Sub-Contractor/ Supplier	City Of Atlanta Supplier ID Number	Company Name, Contact Name, Address and Phone Number	City Of Atlanta Business License? (Yes or No)	Type of Work Solicited for	Business Ownership (See Code below)	Certification No. and Expiration Date	Results of Contact

Name of Sub-contractor/ Supplier	City Of Atlanta Supplier ID Number	Company Name, Contact Name, Address and Phone Number	City Of Atlanta Business License? (Yes or No)	Type of Work Solicited for	Business Ownership (see code below)	Certification No. and Expiration Date	Results of Contact

Proponent's Name: \_\_\_\_\_ Project Name: \_\_\_\_\_ FC#: \_\_\_\_\_

Signature: \_\_\_\_\_ Contact No: \_\_\_\_\_ Date: \_\_\_\_\_



# EQUAL BUSINESS OPPORTUNITY SUBCONTRACTOR PROJECT PLAN SUBCONTRACTOR/SUPPLIER UTILIZATION

List all Majority Owned and Small Business Enterprise (SBE) subcontractors/suppliers, including lower tiers, to be used on this project.

Name of Sub-contractor/ Supplier	Contact Name, Address and Phone Number	City of Atlanta Business License? (yes or no)	NIAC Code	Type of Work to be Performed	Ethnicity of SBE Ownership	SBE Certification No. and Expiration Date	Dollar (\$) Value of Work and Scope of Work	Percentage (%) of Total Bid Amount

Proponent's Co. Name: \_\_\_\_\_ Project Name: \_\_\_\_\_ FC#: \_\_\_\_\_  
 Signature: \_\_\_\_\_ Date: \_\_\_\_\_  
 (Please Print)

**First Source Job Information**

Company Name: \_\_\_\_\_

FC No.: \_\_\_\_\_

Project Name: \_\_\_\_\_

The following entry level positions will become available as a result of the above referenced contract with the City of Atlanta.

1.

2.

3.

4.

5.

Include a job description and all required qualifications for each position listed above.

Identify a company representative and contact phone number who will be responsible for coordinating with the First Source Jobs Program.

Company Representative: \_\_\_\_\_

Phone Number: \_\_\_\_\_

FORM 4

## First Source Jobs Agreement

**THIS AGREEMENT REGARDING THE USE OF THE FIRST SOURCE JOBS PROGRAM BY CONTRACTORS WITH THE CITY OF ATLANTA TO FILL ENTRY LEVEL JOBS is made and entered into by \_\_\_\_\_**

**This \_\_\_\_\_ day of \_\_\_\_\_, 201\_\_.**

The City of Atlanta requires the immediate beneficiary or primary contractor for every eligible project to enter into a First Source Jobs employment agreement. The contractor agrees to the following terms and conditions:

- The first source for finding employees to fill all entry level jobs Created by the eligible project will be the First Source Program.
- The contractor will make every effort to fill 50% of the entry level jobs created by this eligible project with applicants from the First Source Program.
- The contractor shall make good faith effort to reach the goal of this employment agreement.
- Details as to the number and description of each entry level job must me provided with the bid.
- The contractor shall comply with the spirit of the First Source Jobs Policy beyond the duration of this agreement and continue to make good faith attempts to hire employees of similar backgrounds to those participating in the First Source Program.
- The contractor as a condition of transfer, assignment or otherwise shall require the transferee to agree in writing to the terms of the employment Agreement.

Upon a determination that a beneficiary or contractor has failed to comply with the terms of this Agreement, the City may impose the following penalties based on the severity of the non-compliance:

- The City of Atlanta may withhold payment from the contractor.
- The City of Atlanta may withhold 10 percent of all future payments on the contract until the contractor is in compliance
- The City of Atlanta may refuse all future bids on city projects or applications for financials assistance in any form from the City until the contractor demonstrated that the First Source requirements have been met, or cancellation of the eligible project.
- The City of Atlanta may cancel the eligible project.

All terms stated herein can be found in the City of Atlanta Code of Ordinances Sections 5-8002 through 5-8005.

The undersigned hereby agrees to the terms and conditions set forth in this agreement.

\_\_\_\_\_  
Contractor

FORM 5

## **Appendix B**

### **Risk Management Requirements**

**APPENDIX B  
INSURANCE & BONDING REQUIREMENTS  
FC-7522, Inmate Pharmacy Services**

**A. Preamble**

The following requirements apply to all work under the agreement. Compliance is required by all Contractors/Consultants. **To the extent permitted by applicable law, the City of Atlanta ("City") reserves the right to adjust or waive any insurance or bonding requirements contained in this Appendix B and applicable to the agreement.**

**1. Evidence of Insurance Required Before Work Begins**

No work under the agreement may be commenced until all insurance and bonding requirements contained in this Appendix B, or required by applicable law, have been complied with and evidence of such compliance satisfactory to City as to form and content has been filed with City. Contractor/Consultant must provide City with a Certificate of Insurance that clearly and unconditionally indicates that Contractor/Consultant has complied with all insurance and bonding requirements set forth in this Appendix B and applicable to the agreement. If the Contractor/Consultant is a joint venture, the insurance certificate should name the joint venture, rather than the joint venture partners individually, as the primary insured. In accordance with the solicitation documents applicable to the agreement at the time Contractor/Consultant submits to City its executed agreement, Contractor/Consultant must satisfy all insurance and bonding requirements required by this Appendix B and applicable by law, and provide the required written documentation to City evidencing such compliance. In the event that Contractor/Consultant does not comply with such submittal requirements within the time period established by the solicitation documents applicable to the agreement, City may, in addition to any other rights City may have under the solicitation documents applicable to the agreement or under applicable law, make a claim against any bid security provided by Contractor/Consultant.

**2. Minimum Financial Security Requirements**

All companies providing insurance required by this Appendix B must meet certain minimum financial security requirements. These requirements must conform to the ratings published by A.M. Best & Co. in the current Best's Key Rating Guide - Property-Casualty. The ratings for each company must be indicated on the documentation provided by Contractor/Consultant to City certifying that all insurance and bonding requirements set forth in this Appendix B and applicable to the agreement have been unconditionally satisfied.

For all agreements, regardless of size, companies providing insurance or bonds under the agreement must meet the following requirements:

- i) Best's Rating not less than A-,
- ii) Best's Financial Size Category not less than Class IX, and

- iii) Companies must be authorized to conduct and transact insurance contracts by the Insurance Commissioner, State of Georgia.
- iv) All bid, performance and payment bonds must be underwritten by a U.S. Treasury Circular 570 listed company.

If the issuing company does not meet these minimum requirements, or for any other reason is or becomes unsatisfactory to City, City will notify Contractor/Consultant in writing. Contractor/Consultant must promptly obtain a new policy or bond issued by an insurer acceptable to City and submit to City evidence of its compliance with these conditions.

Contractor/Consultant's failure to comply with all insurance and bonding requirements set forth in this Appendix B and applicable to the agreement will not relieve Contractor/Consultant from any liability under the agreement. Contractor/Consultant's obligations to comply with all insurance and bonding requirements set forth in Appendix B and applicable to the agreement will not be construed to conflict with or limit Contractor/Consultant's/Consultant's indemnification obligations under the agreement.

3. Insurance Required for Duration of Contract

All insurance and bonds required by this Appendix B must be maintained during the entire term of the agreement, including any renewal or extension terms, and until all work has been completed to the satisfaction of City.

4. Notices of Cancellation & Renewal

Contractor/Consultant must, notify the City of Atlanta in writing at the address listed below by mail, hand-delivery or facsimile transmission, within 2 days of any notices received from any insurance carriers providing insurance coverage under this Agreement and Appendix B that concern the proposed cancellation, or termination of coverage.

68 Mitchell St. Suite 9100  
Atlanta, GA 30303  
Facsimile No. (404) 658-7450

Confirmation of any mailed notices must be evidenced by return receipts of registered or certified mail.

Contractor/Consultant shall provide the City with evidence of required insurance prior to the commencement of this agreement, and, thereafter, with a certificate evidencing renewals or changes to required policies of insurance at least fifteen (15) days prior to the expiration of previously provided certificates.

5. Agent Acting as Authorized Representative

Each and every agent acting as Authorized Representative on behalf of a company affording coverage under this contract shall warrant when signing the Acord Certificate of Insurance that specific authorization has been granted by the Companies for the Agent to bind coverage as required and to execute the

Acord Certificates of Insurance as evidence of such coverage. City of Atlanta coverage requirements may be broader than the original policies; these requirements have been conveyed to the Companies for these terms and conditions.

In addition, each and every agent shall warrant when signing the Acord Certificate of Insurance that the Agent is licensed to do business in the State of Georgia and that the Company or Companies are currently in good standing in the State of Georgia.

6. Certificate Holder

The **City of Atlanta** must be named as certificate holder. All notices must be mailed to the attention of **Risk Management at 68 Mitchell Street, Suite, 9100, Atlanta, Georgia 30303.**

7. Project Number & Name

The project number and name must be referenced in the description section of the insurance certificate.

8. Additional Insured Endorsements – CG 20 26 07 04 or equivalent

The City must be covered as Additional Insured under all insurance (except worker's compensation and professional liability) required by this Appendix B and such insurance must be primary with respect to the Additional Insured. Additional Insured language must read **"In compliance with the contract requirements, certificate holder is an additional insured under the policy."** Confirmation of this must unconditionally appear on any **Certificate of Insurance** provided by Contractor/Consultant as evidence of its compliance with this Appendix B. **Contractor/Consultant must also submit to City an Additional Insured Endorsement (CG 20 26 07 04 or equivalent or its equivalent) evidencing City's rights as an Additional Insured for each policy of insurance under which it is required to be an additional insured pursuant to this Appendix B. Endorsement must not exclude the Additional Insured from Products - Completed Operations coverage. The City shall not have liability for any premiums charged for such coverage.**

9. Mandatory Sub-Contractor/Consultant Compliance

Contractor/Consultant must require and ensure that all subContractor/Consultants/subconsultants at all tiers to be sufficiently insured/bonded based on the scope of work performed under this agreement.

10. Self Insured Retentions, Deductibles or Similar Obligations

Any self insured retention, deductible or similar obligation will be the sole responsibility of the contractor.

11. Task Order

Evidence of compliance with insurance requirements must be provided on a Task Order basis prior to the issuance of any Notice to Proceed.

B. Workers' Compensation and Employer's Liability Insurance

Contractor/Consultant must procure and maintain Workers' Compensation and Employer's Liability Insurance in the following limits to cover each employee who is or may be engaged in work under the agreement. :

Workers' Compensation. . . . . **Statutory**

Employer's Liability:

Bodily Injury by Accident/Disease	<b>\$500,000 each accident</b>
Bodily Injury by Accident/Disease	<b>\$500,000 each employee</b>
Bodily Injury by Accident/Disease	<b>\$500,000 policy limit</b>

C. Commercial General Liability Insurance

Contractor/Consultant must procure and maintain Commercial General Liability Insurance on form (CG 00 00 01 or equivalent) in an amount not less than **\$1,000,000 per occurrence subject to a \$2,000,000 aggregate.** The following indicated extensions of coverage must be provided:

- ☒ Contractual Liability
- ☒ Broad Form Property Damage
- ☒ Premises Operations
- ☒ Personal Injury
- ☒ Advertising Injury
- ☒ Fire Legal Liability
- ☒ Medical Expense
- ☒ Independent Contractor/Consultants/SubContractor/Consultants
- ☒ Products – Completed Operations
- ☒ Additional Insured Endorsement\* (primary& non-contributing in favor of the City of Atlanta)
- ☒ Waiver of Subrogation in favor of the City of Atlanta

D. Commercial Automobile Liability Insurance

Contractor/Consultant must procure and maintain Automobile Liability Insurance in an amount not less than **\$500,000** Bodily Injury and Property Damage combined single limit. The following indicated extensions of coverage must be provided:

- ☒ Owned, Non-owned & Hired Vehicles
- ☒ Waiver of Subrogation in favor of the City of Atlanta

If Contractor/Consultant does not own any automobiles in the corporate name, non-owned vehicle coverage will apply and must be endorsed on either Contractor/Consultant's personal automobile policy or the Commercial General Liability coverage required under this Appendix B.



E. Professional Liability Insurance

Contractor/Consultant shall procure and maintain during the life of this contract Professional Liability Insurance in an amount of **\$1,000,000** per occurrence and annual aggregate. The policy will fully address the Contractor/Consultant's professional services associated with the scope of work contained in this document. The policy will include at least a three year Extended Reporting Provision.

End of Document

A. Preamble

The following requirements apply to all work under the agreement. Compliance is required by all Contractors/Consultants. **To the extent permitted by applicable law, the City of Atlanta ("City") reserves the right to adjust or waive any insurance or bonding requirements contained in this Appendix B and applicable to the agreement.**

1. Evidence of Insurance Required Before Work Begins

**No work under the agreement may be commenced until all insurance and bonding requirements contained in this Appendix B, or required by applicable law, have been complied with and evidence of such compliance satisfactory to City as to form and content has been filed with City.** Contractor/Consultant must provide City with a Certificate of Insurance that clearly and unconditionally indicates that Contractor/Consultant has complied with all insurance and bonding requirements set forth in this Appendix B and applicable to the agreement. If the Contractor/Consultant is a joint venture, the insurance certificate should name the joint venture, rather than the joint venture partners individually, as the primary insured. In accordance with the solicitation documents applicable to the agreement at the time Contractor/Consultant submits to City its executed agreement, Contractor/Consultant must satisfy all insurance and bonding requirements required by this Appendix B and applicable by law, and provide the required written documentation to City evidencing such compliance. In the event that Contractor/Consultant does not comply with such submittal requirements within the time period established by the solicitation documents applicable to the agreement, City may, in addition to any other rights City may have under the solicitation documents applicable to the agreement or under applicable law, make a claim against any bid security provided by Contractor/Consultant.

2. Minimum Financial Security Requirements

All companies providing insurance required by this Appendix B must meet certain minimum financial security requirements. These requirements must conform to the ratings published by A.M. Best & Co. in the current Best's Key Rating Guide - Property-Casualty. The ratings for each company must be indicated on the documentation provided by Contractor/Consultant to City

certifying that all insurance and bonding requirements set forth in this Appendix B and applicable to the agreement have been unconditionally satisfied.

For all agreements, regardless of size, companies providing insurance or bonds under the agreement must meet the following requirements:

- i) Best's Rating not less than A-,
- ii) Best's Financial Size Category not less than Class IX, and
- v) Companies must be authorized to conduct and transact insurance contracts by the Insurance Commissioner, State of Georgia.
- vi) All bid, performance and payment bonds must be underwritten by a U.S. Treasury Circular 570 listed company.

If the issuing company does not meet these minimum requirements, or for any other reason is or becomes unsatisfactory to City, City will notify Contractor/Consultant in writing. Contractor/Consultant must promptly obtain a new policy or bond issued by an insurer acceptable to City and submit to City evidence of its compliance with these conditions.

Contractor/Consultant's failure to comply with all insurance and bonding requirements set forth in this Appendix B and applicable to the agreement will not relieve Contractor/Consultant from any liability under the agreement. Contractor/Consultant's obligations to comply with all insurance and bonding requirements set forth in Appendix B and applicable to the agreement will not be construed to conflict with or limit Contractor/Consultant's/Consultant's indemnification obligations under the agreement.

### 3. Insurance Required for Duration of Contract

All insurance and bonds required by this Appendix B must be maintained during the entire term of the agreement, including any renewal or extension terms, and until all work has been completed to the satisfaction of City.

### 4. Notices of Cancellation & Renewal

Contractor/Consultant must, notify the City of Atlanta in writing at the address listed below by mail, hand-delivery or facsimile transmission, within 2 days of any notices received from any insurance carriers providing insurance coverage under this Agreement and Appendix B that concern the proposed cancellation, or termination of coverage.

68 Mitchell St. Suite 9100  
Atlanta, GA 30303  
Facsimile No. (404) 658-7450

Confirmation of any mailed notices must be evidenced by return receipts of registered or certified mail.

Contractor/Consultant shall provide the City with evidence of required insurance prior to the commencement of this agreement, and, thereafter, with a

certificate evidencing renewals or changes to required policies of insurance at least fifteen (15) days prior to the expiration of previously provided certificates.

5. Agent Acting as Authorized Representative

Each and every agent acting as Authorized Representative on behalf of a company affording coverage under this contract shall warrant when signing the Acord Certificate of Insurance that specific authorization has been granted by the Companies for the Agent to bind coverage as required and to execute the Acord Certificates of Insurance as evidence of such coverage. City of Atlanta coverage requirements may be broader than the original policies; these requirements have been conveyed to the Companies for these terms and conditions.

In addition, each and every agent shall warrant when signing the Acord Certificate of Insurance that the Agent is licensed to do business in the State of Georgia and that the Company or Companies are currently in good standing in the State of Georgia.

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End of Document

**Appendix C**  
**General Conditions**

**(Not Applicable)**

**Appendix D**  
**Special Conditions**

**(Not applicable)**

**Appendix E**  
**Additional Required Submittals**

**(Not applicable)**